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Executive Orders

EXECUTIVE ORDER MJF 02-12

Advisory Task Force on Funding and Efficiency
of the Louisiana Department of Environmental Quality

WHEREAS, Article X, Section 1, of the Louisiana Constitution of 1974, as amended, mandates that "[t]he natural resources of the state, including air and water, and the healthful, scenic, historic, and esthetic quality of the environment shall be protected, conserved, and replenished insofar as possible and consistent with the health, safety, and welfare of the people"; and

WHEREAS, the Louisiana Department of Environmental Quality (hereafter "Department") is the primary state agency charged with environmental protection, the best interests of the citizens of the state of Louisiana will be served by creating an advisory task force to review the funding structure of the Department, the Department's funding sources, the allocation of the funds among the Department's regulatory programs, the costs-benefits of the regulatory programs that have state mandated standards which exceed those required by federal law, and the effectiveness of the Department's reporting, monitoring, permitting, and enforcement programs, and to make recommendations regarding any of the foregoing;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The Advisory Task Force on Funding and Efficiency of the Louisiana Department of Environmental Quality (hereafter "Task Force") is established within the executive department, Office of the Governor.

SECTION 2: The duties of the Task Force shall include, but are not limited to, the following:

1. evaluating the funding structure of the Louisiana Department of Environmental Quality including, but not limited to, fees, fines, penalties, assessments, collections, federal funds, and state general fund appropriations; objectively comparing the funding structure of the Louisiana Department of Environmental Quality to the environmental departments of other states; and recommending an appropriate allocation of funds and funding structure for the Louisiana Department of Environmental Quality which balances the resource needs of the state of Louisiana and the department with the public trust mandates of the Louisiana Constitution of 1974 on environmental protection and the concerns of regulated businesses and industries;

2. analyzing the efficiency and effectiveness of the Louisiana Department of Environmental Quality's programs and functions including, but not limited to, permitting, monitoring, and enforcement; and, where appropriate, recommending measures to improve the efficiency and/or effectiveness of such programs and/or functions; and

3. identifying, evaluating, and recommending appropriate funding sources for the regulatory programs of the Louisiana Department of Environmental Quality that

have state mandated standards which exceed those required by federal law.

SECTION 3: By March 1, 2003, the Task Force shall submit a final report to the governor on the issues set forth in Section 2 of this Order. A preliminary report on the issues, which includes draft legislation that may be appropriate, shall be submitted to the governor no later than December 31, 2002.

SECTION 4: The Task Force shall be composed of a maximum of twenty-nine (29) members who, unless otherwise specified, shall be appointed by and serve at the pleasure of the governor. The membership of the Task Force shall be selected as follows:

1. the governor, or the governor's designee;
2. the secretary of the Louisiana Department of Environmental Quality, or the secretary's designee;
3. the president of the Louisiana Senate, or the president's designee;
4. the speaker of the Louisiana House of Representatives, or the speaker's designee;
5. the director of the Petro Chemical and Environmental Technology Cluster of the Department of Economic Development, or the director's designee;
6. the chair of the Governor's Task Force on Environmental Protection and Preservation;
7. the chair of the House Committee on the Environment, or the chair's designee;
8. the chair of the Senate Committee on Environmental Quality, or the chair's designee;
9. the legislative auditor, or the legislative auditor's designee;
10. a representative of the Louisiana Association of Business and Industry;
11. a representative of the Louisiana Environmental Action Network;
12. a representative of the Louisiana Farm Bureau Association;
13. a representative of the Louisiana Forestry Association;
14. a representative of the Louisiana Independent Oil and Gas Association;
15. a representative of the Louisiana Municipal Association;
16. a representative of the League of Women Voters;
17. a representative of the Louisiana Nature Conservancy;
18. a representative of the Louisiana Police Jury Association;
19. a representative of the Public Affairs Research Council;
20. a representative of the Louisiana Electric Utility Association;
21. a representative of the Louisiana Pulp and Paper Association;
22. a representative of the Council for a Better Louisiana;

EXECUTIVE ORDER MJF 02-13

Bond Allocation Louisiana Housing Finance Agency

- 23. a representative of the Alliance for Affordable Energy;
- 24. a representative of the Coalition to Restore Coastal Louisiana;
- 25. a representative of the Louisiana Chemical Association;
- 26. a representative of the Midcontinent Oil and Gas Association;
- 27. a representative of the Louisiana Wildlife Federation; and
- 28. two (2) members at-large.

SECTION 5: The chair of the Task Force shall be appointed by the governor from the membership for the Task Force. All other officers, if any, shall be elected by and from the membership of the Task Force.

SECTION 6: The Task Force shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 7:

A. Task Force members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Task Force.

1. Task Force members who are an employee or an elected public official of the state of Louisiana or a political subdivision of the state of Louisiana may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

2. Task Force members who are also a member of the Louisiana Legislature may seek a per diem from the Louisiana Senate or House of Representatives, as appropriate, for their attendance at Task Force meetings and/or services on the Task Force.

SECTION 8: Support staff, facilities, and resources for the Task Force shall be provided by the Louisiana Department of Environmental Quality.

SECTION 9: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Task Force in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 21st day of June, 2002.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0207#001

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

- (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2002 (hereafter "the 2002 Ceiling");
- (2) the procedure for obtaining an allocation of bonds under the 2002 Ceiling; and
- (3) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Housing Finance Agency has requested an allocation from the 2002 Ceiling to provide mortgage financing for a multifamily housing project comprised of (i) Melrose East I Apartments 36 units, (ii) Melrose East II Apartments - 76 units, and (iii) Melrose East III Apartments 60 units, located in Melrose East neighborhood, city of Baton Rouge, parish of East Baton Rouge, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the private activity bond volume limits for the calendar year of 2002 as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$5,000,000	Louisiana Housing Finance Agency	Melrose Ease II, LLC

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before September 23, 2002.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or

indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of

Louisiana, at the Capitol, in the city of Baton Rouge, on this 25th day of June, 2002.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0207#002

Emergency Rules

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Public Notification of Contamination
(LAC 33:I.Chapter 1)(OS042E)

In accordance with the emergency provision of the Administrative Procedure Act, R.S. 49:953.B, and under the authority of R.S. 30:2011, the secretary of the Department of Environmental Quality declares that an emergency action is necessary to comply with the Governor's October 1, 2001, Executive Order No. MJF 2001-46, entitled "Environmental Contamination Notification." The order states, "the health, safety, and welfare of the people of Louisiana would be improved, and the government would better fulfill its public trust obligations, if those executive branch agencies notified people who may be exposed to environmental contamination when such agency has sound scientific knowledge of environmental contamination that exceeds the applicable federal and state health standards and that may cause adverse health effects."

This Emergency Rule is effective on July 10, 2002, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning OS042E, you may contact the Regulation Development Section at (225) 765-0399.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures Chapter 1. Public Notification of Contamination

§101. Purpose

A. The purpose of this Chapter is to establish requirements for notifying those members of the public that the department determines are likely to be adversely affected by a release.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§103. Definitions

Administrative Authority—the secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Applicable Federal or State Health and Safety Standard—such standards the department, based on its knowledge and expertise, determines are applicable to the release site.

Department—the Department of Environmental Quality.

Offsite—areas beyond the property boundary of the release site.

Person—any individual, municipality, public or private corporation, partnership, firm, the State of Louisiana, political subdivisions of the State of Louisiana, the United

States government, and any agent or subdivision thereof or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, commissions, and interstate bodies.

Release—the accidental or intentional spilling, leaking, pumping, pouring, emitting, escaping, leaching, or dumping of hazardous substances or other pollutants into or on any land, air, water, or groundwater. A release shall not include a federal or state permitted release or other release authorized by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§105. Notification Requirements

A. Notice shall be provided when the department confirms offsite impact that exceeds the applicable federal or state health and safety standard and the department determines that the offsite impact poses a risk of adverse health effects.

B. The department shall issue notice of a release to persons, within the area of contamination, where the department determines that the release poses a risk of adverse health effects.

C. The public notice shall be provided by means reasonably calculated to reach those members of the public directly affected by the release, as determined by the department, and shall provide information regarding potential adverse health effects posed by the contamination, as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

J. Dale Givens
Secretary

0207#039

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of the Secretary

Commercial Laboratories Pending Accreditation
(LAC 33:I.4501 and 4719)(OS039E2)

In accordance with the emergency provisions of R.S. 49:953.B of the Administrative Procedure Act, which allows the Department of Environmental Quality to use emergency procedures to establish rules, and of R.S. 30:2011 and R.S. 30:2074, which allows the department to establish standards, guidelines, and criteria, to promulgate rules and regulations, and to issue compliance schedules, the secretary of the department hereby finds that imminent peril to the public welfare exists and accordingly adopts the following Emergency Rule.

This is a renewal of Emergency Rule OS039E, which was effective November 16, 2001, and renewed effective March 16, 2002. The renewal was published in the Louisiana Register on March 20, 2002. The department is drafting a Rule (Log #OS039E) to promulgate this regulation.

The department relies on analytical data submitted both directly and indirectly to the department to determine compliance with both state and federal regulations. As a result of deadlines established in current Louisiana regulations, the department is prohibited from accepting data from commercial laboratories that have not received departmental accreditation. This rule will allow the department to accept data from laboratories that have submitted complete applications and supporting documents, have submitted documentation verifying certification/accreditation by a department-approved accreditation program or supporting documentation showing the quality assurance and quality control program used to generate analytical data by the laboratory, and have paid all appropriate fees. A finding of imminent peril to public health, safety, and welfare is based on the inability to accept and review analytical data. Furthermore, the environmental analytical laboratory industry could suffer a loss of jobs.

The department is adding an exemption for personnel monitoring services and those activities specifically licensed in accordance with LAC 33:XV.Chapter 3.Subchapter B, equivalent agreement state regulations, and the Nuclear Regulatory Commission regulations, Title 10 *Code of Federal Regulations*, due to the fact that they are licensed under other department regulations and to prevent an additional economic burden and duplication of effort by the department.

The department relies on the analytical data to determine permit compliance, enforcement issues, and effectiveness of remediation of soils and groundwater. Permit issuance and compliance are effective means of determining the impact on human health and the environment. The Department must have access to accurate, reliable, precise analytical data in order to meet its mandate to protect human health and the environment.

This Emergency Rule is effective on July 14, 2002, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning OS039E2, you may contact the Regulation Development Section at (225) 765-0399.

Title 33

Environmental Quality

Part I. Office of the Secretary

Subpart 3. Laboratory Accreditation

Chapter 45. Policy and Intent

§4501. Description and Intent of Program

A. - D. ...

E. This Subpart shall not apply to the following:

1. laboratory analyses programs accredited under the regulatory and statutory authority of the Louisiana Department of Health and Hospitals; and

2. personnel monitoring services in accordance with LAC 33:XV.430.C and to those activities specifically licensed in accordance with LAC 33:XV.Chapter 3.Subchapter B, equivalent agreement state regulations, and the Nuclear Regulatory Commission regulations, Title 10 *Code of Federal Regulations*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:917 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1434 (July 2000), LR 28:

Chapter 47. Program Requirements
§4719. Implementation

A. - B. ...

C. The department will accept analytical data generated by laboratories that do not comply with the deadlines established in Subsection B of this Section for accreditation if such laboratories:

1. have submitted a complete application form and supporting documents;

2. have submitted documentation verifying certification/accreditation by a department-approved accreditation program or supporting documentation showing the quality assurance and quality control program used to generate analytical data by the laboratory; and

3. have paid appropriate fees.

D. These regulations shall not apply to field tests as defined in LAC 33:I.4503.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), LR 28:

J. Dale Givens
Secretary

0207#0017

DECLARATION OF EMERGENCY

Department of Health and Hospitals

Office of the Secretary

Bureau of Health Services Financing

CommunityCARE Program
Physician Services
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B.(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implemented a primary care case management (PCCM) program called CommunityCARE in designated parishes of the state to provide access to health care for eligible Medicaid recipients, particularly those residing in rural communities. The CommunityCARE Program provides Medicaid recipients in the designated parishes with a primary care physician, osteopath, or family doctor to serve as their primary care provider (*Louisiana Register*, Volume 19, Number 5). Recipients are given the opportunity to select a

participating doctor, federally qualified health center (FQHC), or rural health clinic in their parish of residence or in a contiguous parish to be their primary care provider. The May 20, 1993 Rule was subsequently amended to remove the prior authorization requirement for emergency medical services when appropriate medical screening determines that an emergency medical condition exists (*Louisiana Register*, Volume 25, Number 4) and to establish criteria for changing primary care physicians (*Louisiana Register*, Volume 27, Number 4).

The Department has determined that it is necessary to expand the CommunityCARE Program into a statewide program. In order to facilitate provider participation, the Bureau proposes to increase the reimbursement rate for certain designated Physicians= Current Procedural Terminology (CPT) procedure codes related to primary care services. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the CommunityCARE Program and recipient access to providers of primary medical services.

Emergency Rule

Effective for dates of service on or after July 31, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rates for certain designated Physicians= Current Procedural Terminology (CPT) procedure codes related to primary medical services rendered to CommunityCare recipients by providers enrolled in the CommunityCARE Program.

Reimbursement for the following CPT-4 evaluation and management procedure codes is increased to 70 percent of the 2002 Medicare allowable fee schedule. The increase shall apply only to services provided by enrolled CommunityCARE providers to CommunityCARE recipients.

99347	Home Visit, Established Patient
99348	Home Visit, Established Patient
99349	Home Visit, Established Patient
99350	Home Visit, Established Patient
99432	Normal Newborn Care Other than Hospital

Reimbursement for the following CPT-4 preventative medicine procedure codes is increased to \$51. The increase shall apply only to services provided by enrolled CommunityCARE providers to CommunityCARE recipients.

CPT-4 Code	Description
99381	Initial Healthy Individual, New Patient, Infant to 1 year
99382	Initial Healthy Individual, New Patient, Early Childhood 1-4 years
99383	Initial Healthy Individual, New Patient, Late Childhood 5-11 years
99384	Initial Healthy Individual, New Patient, Adolescent 12-17 years
99385	Initial Healthy Individual, New Patient, 18-39 years
99391	Periodic Reevaluation and Management Healthy Individual, Infant
99392	Periodic Reevaluation and Management Healthy Individual, Early Childhood 1-4 years
99393	Periodic Reevaluation and Management Healthy Individual, Late Childhood 5-11 years
99394	Periodic Reevaluation and Management Healthy Individual, Adolescent 12-17 years
99395	Periodic Reevaluation and Management Healthy Individual, 18-39 years

Implementation of this emergency rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0207#053

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Early and Periodic Screening, Diagnosis and Treatment
Dental ProgramC Reimbursement Fee Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B.(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

CPT-4 Code	Description
99201	Office, New Patient, Straightforward
99202	Office New Patient, Expanded, Straightforward
99203	Office New Patient, Detailed, Low Complexity
99204	Office New Patient, Comp, Moderate Complexity
99205	Office New Patient, Comp, High Complexity
99211	Office Established Patient, Minimal Problems
99214	Office Est Patient, Detailed, Mod Complexity
99215	Office Est Patient, Comp, High Complexity
99218	Initial Observation Care, Straightforward, Low Complexity
99219	Initial Observation Care, Comprehensive, Moderate Complexity
99220	Initial Observation Care, Comprehensive, High Complexity
99221	Initial Hospital Comprehensive, Straightforward, Low Complexity
99222	Initial Hospital Comprehensive, Moderate Complexity
99223	Initial Hospital Comprehensive, High Complexity
99232	Subsequent Hospital, Expanded, Moderate Complexity
99233	Subsequent Hospital, Detailed, High Complexity
99238	Hospital Discharge Management
99283	Emergency Room Visit, Expanded, Low Complexity
99284	Emergency Room Visit, Detailed, Moderate Complexity
99285	Emergency Room Visit, Comprehensive, High Complexity
99342	Home, New Patient, Expanded, Moderate Complexity
99343	Home, New Patient, Detailed, High Complexity
99344	Home, New Patient
99345	Home, New Patient

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services under the Medicaid Program. Reimbursement for these services is a flat fee established by the Bureau minus the amount that any third party coverage would pay. In compliance with Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature, the Bureau adopted a rule to make additional increases to the fees for certain designated dental procedure codes (*Louisiana Register, Volume 27, Number 8*). In addition, the bureau established requirements that EPSDT Dental Program providers process the recipient's last name and first initial, the month and year, and their Medicaid provider number into all new removable dental prosthetics reimbursed under the Medicaid Program. As a result of the allocation of additional funds by the Legislature during the 2002 Regular Session, the Bureau proposes to again increase the reimbursement rates for certain designated dental procedure codes.

This action is being taken to protect the health and welfare of Medicaid recipients and to maintain access to EPSDT dental services by encouraging the continued participation of dental providers in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures for EPSDT dental services by approximately \$3,452,271 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of services on or after July 6, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement fees for certain designated procedure codes to the following rates:

Procedure Code	Procedure Name	New Rate
00120	Periodic Oral Exam	\$ 16.00
00220	Radiograph - Periapical - First Film	\$ 6.00
00230	Radiograph - Periapical - Each Additional Film	\$ 5.00
00272	Radiographs - Bitewing - Two Films	\$ 12.00
01110	Adult Prophylaxis	\$ 27.00
01120	Child Prophylaxis	\$ 12.00
01351	Sealant - Per Tooth	\$ 16.00
02120	Amalgam - Two Surface, Primary	\$ 50.00
02130	Amalgam - Three Surface, Primary	\$ 60.00
02140	Amalgam - One Surface, Permanent	\$ 42.00
02150	Amalgam - Two Surface, Permanent	\$ 53.00
02160	Amalgam - Three Surface, Permanent	\$ 64.00
02330	Resin - One Surface	\$ 45.00
02331	Resin - Two Surface	\$ 55.00
02332	Resin - Three Surface	\$ 65.00
02930	Stainless Steel Crown, Primary	\$ 80.00
02931	Stainless Steel Crown, Permanent	\$ 80.00
02950	Crown Buildup	\$ 85.00
03220	Pulpotomy - Deciduous Tooth Only	\$ 40.00
03310	Root Canal - One Canal	\$ 212.00
03320	Root Canal - Two Canals	\$ 241.00
03330	Root Canal - Three Canals	\$ 306.00
07110	Simple Extraction	\$ 38.00
07210	Surgical Extraction	\$ 57.00

Implementation of the provisions of this rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0207#004

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Emergency Medical Transportation Program Emergency Ambulance Services Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B.(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for emergency ambulance transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay. As a result of the allocation of additional funds by the Legislature during the 2001 Regular Session, the bureau increased the reimbursement for certain designated procedure codes for emergency ambulance transportation services by 1.4 percent (*Louisiana Register, Volume 27, Number 11*).

As a result of the allocation of additional funds by the Legislature during the 2002 Regular Session, the bureau now proposes to increase the reimbursement for certain designated procedure codes for emergency ambulance transportation services by either five percent or six percent. This action is being taken to promote the health and welfare of Medicaid recipients and to maintain access to emergency ambulance transportation services by encouraging the continued participation of providers in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures for emergency ambulance transportation services by approximately \$1,447,534 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service July 6, 2002 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the

reimbursement for the following designated procedure codes for emergency ambulance transportation services by 5 percent.

A0427	ALS-Emergency
A0433	ALS2
A0434	Speciality care transport

Reimbursement for the following designated procedure code for emergency ambulance transportation services will be increased by 6 percent.

A0425	Ground mileage
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Implementation of the provisions of this rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0207#006

DECLARATION OF EMERGENCY
Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Medical Transportation Services CNon-Emergency
Ambulance Services CReimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B.(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for non-emergency ambulance transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay. As a result of the allocation of additional funds by the Legislature during the 2001 Regular Session, the bureau adopted a rule to increase the reimbursement for certain designated procedure codes for non-emergency ambulance transportation services (*Louisiana Register*, Volume 27, Number 11).

As a result of the allocation of additional funds by the Legislature during the 2002 Regular Session, the bureau proposes to again increase the reimbursement for certain designated procedure codes for non-emergency ambulance

transportation services. This action is being taken to promote the health and welfare of recipients and to maintain access to non-emergency ambulance transportation services by encouraging the continued participation of these providers in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures for non-emergency ambulance transportation services by approximately \$849,020.83 for the state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service July 1, 2002 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for certain designated procedure codes for non-emergency ambulance transportation services to the following rates.

A0426	ALS non-emergency transport	\$178.26
A0428	BLS non-emergency transport	\$178.26
Z5100	Transfer, loaded miles, BLS, 1 st trip	\$178.26
Z5101	Transfer, loaded miles, ALS, 1 st trip	\$178.26

Implementation of the provisions of this rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0207#008

DECLARATION OF EMERGENCY
Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Minimum Licensing Standards
Ambulatory Surgical Centers
Stereotactic Radiosurgery
(LAC 48:I.4571)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 40:2131-2141. This Emergency Rule is adopted in accordance with the Administrative Procedure Act and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Human Resources adopted regulations governing the licensing of ambulatory surgical centers (*Louisiana Register*, Volume 3, Number 3). The March 20, 1977 Rule was subsequently amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing to repeal requirements

for the periodic processing of cultures (*Louisiana Register*, Volume 24, Number 2) and the semi-annual sampling for bacteria (*Louisiana Register*, Volume 24, Number 10).

Act 754 of the 2001 Session of the Louisiana Legislature amended R.S. 40:2133.A and 2136 to expand the definition of ambulatory surgical centers to include treatment centers that offer stereotactic radiosurgery by use of a Gamma Knife or similar neurosurgical tool. In addition, the Act directed the Department to establish rules, regulations and minimum standards for the licensing of ambulatory surgical centers as defined in R.S. 40:2133.A. In compliance with Act 754, the Department proposes to amend the licensing standards for ambulatory surgical centers in order to exempt facilities that perform stereotactic radiosurgery procedures from certain requirements. This action is being taken in order to comply with R.S. 40:2136.B.

Emergency Rule

Effective July 20, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the licensing standards governing the operations of ambulatory surgical centers to exempt facilities operated primarily for the purpose of performing stereotactic radiosurgery procedures from certain requirements.

Title 48

PUBLIC HEALTH GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 45. Ambulatory Surgical Center

§4571. Stereotactic Radiosurgery

A. Ambulatory surgical centers operated primarily for the purpose of offering stereotactic radiosurgery by use of a Gamma Knife or similar neurosurgical tool, shall comply with all licensing requirements contained in Chapter 45 and applicable sections of the Guidelines for Design and Construction of Hospital and Health Care Facilities, except for the following.

1. Section 4509.L.
2. Section 4545.B.
3. Section 4545.D.

4. The centers shall also be exempt from Section 9.5.F5.c of the *Guidelines for Design and Construction of Hospital and Health Care Facilities*. This Section states: A Scrub facilities. Station(s) shall be provided near the entrance to each operating room and may service two operating rooms if needed. Scrub facilities shall be arranged to minimize incidental splatter on nearby personnel or supply carts.

B. The exceptions listed in this Section do not apply to ambulatory surgical centers performing surgical procedures in conjunction with stereotactic radiosurgery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A

copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0207#052

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Private Hospitals COutlier Payments

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B.(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing established a reimbursement methodology for payments to disproportionate share hospitals for catastrophic costs associated with providing medically necessary services to children under six years of age (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology also addressed payments to all acute care hospitals for catastrophic costs associated with providing medically necessary services to infants one year of age or under. An outlier payment is calculated on an individual case basis and paid at cost if covered charges for medically necessary services exceeds 200 percent of the prospective payment.

The June 20, 1994 rule was subsequently amended to revise the qualification and calculation for outlier payments (*Louisiana Register*, Volume 22, Number 2). To qualify for an outlier payment, the covered charges for the case must exceed both \$150,000 and 200 percent of the prospective payment. Outlier cases qualifying under these criteria are reimbursed the marginal cost associated with the excess cost above the prospective payment amount. As a result of the allocation of funds by the Legislature during the 2002 Regular Session, the bureau has determined it is necessary to reduce the outlier payments made to private hospitals by amending the definition of marginal cost contained in the February 20, 1996 rule. In addition, the bureau proposes to change the base period for the hospital specific cost-to-charge ratio that is currently utilized for the calculation of outlier payments and establish a deadline for receipt of the written request filing for outlier payments.

Taking into consideration the reduction in outlier payments in state fiscal year 2002-2003, the department has carefully reviewed the proposed payments and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that

private (non-state) inpatient hospital services for children under six years of age and infants up to one year of age under the state plan are available at least to the extent that they are available to children in the general population in the state.

This action is being taken to avoid a budget deficit in the medical assistance program. It is estimated that implementation of this proposed rule will decrease expenditures for outlier payments to private hospitals by approximately \$6,115,453 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on or after July 1, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt an emergency rule to amend the February 20, 1996 rule by changing the definition of marginal cost. The marginal cost factor for outliers shall be considered to be 100 percent of costs after the costs for the case exceed the hospital's prospective payment. Outlier payments are not payable for transplant procedures as transplants are not reimbursed on a prospective basis. In addition, the bureau proposes to amend the reimbursement methodology for calculating outlier payments for private hospitals to change the hospital specific cost-to-charge ratio from the base period currently being utilized to a hospital specific cost-to-charge ratio based on the hospital's cost report period ending in state fiscal year (SFY) 2000 (July 1, 1999 through June 30, 2000). The cost-to-charge ratio for new hospitals and hospitals that did not provide Medicaid Neonatal Intensive Care Unit (NICU) services in SFY 2000 will be calculated based on the first full year cost reporting period that the hospital was open or that Medicaid NICU services were provided.

A deadline of six months subsequent to the date that the final claim is paid shall also be established for receipt of the written request filing for outlier payments.

The hospital specific cost-to-charge ratio will be reviewed bi-annually and the outlier payment may be adjusted as a result of this review at the discretion of the Secretary. Upon adoption of the rule, hospitals shall receive notification of an impending change to the hospital specific outlier payment by means of a letter sent directly to the hospital.

Implementation of this proposed rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this public notice. The deadline for receipt of all written comments is August 1, 2002 by 4:30 p.m. A copy of this public notice is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0207#047

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Professional Services Program
Physician Services
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses professional services in accordance with an established fee schedule for Physicians= Current Procedural Terminology (CPT) codes, locally assigned codes and Health Care Financing Administration Common Procedure Codes (HCPC). Reimbursement for these services is a flat fee established by the bureau minus the amount which any third party coverage would pay.

As a result of the allocation of additional funds by the legislature during the 2000 Second Extraordinary Session, the bureau restored a 7 percent reduction to the reimbursement rates for selected locally assigned HCPCS and specific CPT-4 procedure codes. In addition, the reimbursement fees for certain CPT-4 designated procedure codes were increased (*Louisiana Register*, volume 27, number 5). The bureau now proposes to increase the reimbursement for certain designated CPT-4 procedure codes related to speciality services. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Professional Services Program and recipient access to providers of these medically necessary services.

Emergency Rule

Effective for dates of service on or after July 31, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases reimbursement for certain designated procedure codes related to speciality services.

Reimbursement for the following designated Physicians= Current Procedural Terminology (CPT) codes is increased to 70 percent of the 2002 Medicare allowable fee schedule.

CPT-4 Code	Description
33960	External Circulation Assist
43760	Change Gastrostomy Tube; Simple
57452	Examination of the Vagina
62270	Spinal Fluid Tap, Diagnostic
64640	Injection Treatment of Nerve
85102	Bone Marrow Biopsy
90784	Therapeutic Injection IV
93501	Right Heart Catheterization Only
93510	Left Heart Catheterization, Percutaneous
95810	Polysomnography, 4 or more
96410	Chemotherapy Administration Intravenous

Implementation of this Emergency Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0207#054

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Rehabilitation Services Reimbursement Fee Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B.(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage and reimbursement for rehabilitation services under the Medicaid Program. Rehabilitation services include physical, occupational and speech therapies. Reimbursement is available for these services through outpatient hospital, home health, rehabilitation center and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) health services. The bureau adopted a rule establishing the reimbursement methodology for EPSDT rehabilitation services in April of 1997 (*Louisiana Register, Volume 23, Number 4*). The bureau also adopted a rule establishing the reimbursement methodology for rehabilitation services rendered in rehabilitation center and outpatient hospital settings in June of 1997 (*Louisiana Register, Volume 23, Number 6*). A subsequent rule was adopted by the bureau in May of 2001 to establish the reimbursement methodology for rehabilitation services rendered by home health agencies (*Louisiana Register, Volume 27, Number 5*). Reimbursement

for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay.

The Appropriation Bill (House Bill 1) of the 2002 Regular Session of the Louisiana Legislature directs the Department to increase the reimbursement for physical therapy, occupational therapy, and speech/language and hearing therapy services provided to children under three years of age. In compliance with the Appropriation Bill and as a result of the allocation of additional funds by the Legislature, the Bureau proposes to increase the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of three, regardless of the type of provider performing the services.

This action is being taken to protect the health and welfare of Medicaid recipients under the age of three and to ensure access to rehabilitation services by encouraging the participation of rehabilitation providers in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures for rehabilitation services by approximately \$1,664,935 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of services on or after July 6, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the April 20, 1997, June 20, 1997 and May 20, 2001 rules governing the reimbursement methodology for rehabilitation services provided by outpatient hospitals, rehabilitation centers, home health agencies and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) health services providers to increase the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of three, regardless of the type of provider performing the services.

Home Health Agencies and Outpatient Hospitals

Procedure Code	Procedure Name	New Rate
Y2602	Initial Sp/Lang Evaluation	\$ 70.00
Y2612	Initial Hearing Evaluation	\$ 70.00
Y2615	Sp/Lan/Hear Therapy 60 Minutes	\$ 56.00
Y7101	Visit W/Procedure(S) 45 Minutes	\$ 56.00
Y7102	Visit W/Procedure(S) 60 Minutes	\$ 74.00
Y7104	Visit W/Procedures 90 Minutes	\$112.00
Y7202	Procedures And Modalities 60 Minutes	\$ 74.00
Y7702	Pt And Rehab Evaluation	\$ 75.00
Y7812	Initial Ot Evaluation	\$ 70.00
Y7814	Ot 45 Minutes	\$ 45.00
Y7815	Ot 60 Minutes	\$ 60.00

Rehabilitation Centers

Procedure Code	Procedure Name	New Rate
Y2509	Group Sp Lang Hear Therapy 1/2 Hour	\$ 26.00
Y2511	Speech Group Therapy Add 15 Minutes	\$ 13.00
Y2512	Group Sp Lang Hear Therapy 1 Hour	\$ 51.00
Y2602	Initial Sp/Lang Evaluation	\$ 70.00
Y2612	Initial Hearing Evaluation	\$ 70.00
Y2613	Sp/Lang/Hear Therapy 30 Minutes	\$ 26.00
Y2614	Sp/Lang/Hear Therapy 45 Minutes	\$ 39.00
Y2615	Sp/Lang/Hear Therapy 60 Minutes	\$ 52.00
Y7100	Visit W/Procedure(S) 30 Minutes	\$ 34.00
Y7101	Visit W/Procedure(S) 45 Minutes	\$ 51.00
Y7102	Visit W/Procedure(S) 60 Minutes	\$ 68.00
Y7103	Visit W/Procedure(S) 75 Minutes	\$ 85.00

Y7104	Visit W/Procedure(S) 90 Minutes	\$102.00
Y7106	Ctr Visit One/More Modal/Proc 15 Minutes	\$ 17.00
Y7202	Procedures And Modalities 60 Minutes	\$ 68.00
Y7702	Pt And Rehab Evaluation	\$ 75.00
Y7812	Initial Ot Evaluation	\$ 70.00
Y7813	Ot 30 Minutes	\$ 26.00
Y7814	Ot 45 Minutes	\$ 39.00
Y7815	Ot 60 Minutes	\$ 52.00

EPSDT Health Services

Procedure Code	Procedure Name	New Rate
97032	Electrical Stimulation	\$ 17.00
97110	Pt-One Area-Therapeutic-30 Minutes	\$ 17.00
97112	Pt-Neuromuscular Reed-30 Minutes	\$ 17.00
97116	Pt-Gait Training-30 Minutes	\$ 34.00
97504	Orthotic Training	\$ 14.00
97530	Kinetic Act One Area-30 Minutes	\$ 14.00
97750	Physical Performance Test	\$ 14.00
X0404	Physical Therapy Evaluation/Re-Evaluation	\$ 92.00
X0411	Occ Therapy Evaluation/Re-Evaluation	\$ 70.00
X0412	Speech/Language Evaluation/Re-Evaluation	\$ 70.00
X0423	Speech/Language Therapy 30 Minutes	\$ 26.00
X0424	Speech/Language Therapy Add 15 Minutes	\$ 13.00
Y2509	Group Sp Lang Hear Therapy 1/2 Hour	\$ 26.00
Y2510	Speech Group Therapy 20 Minutes	\$ 13.00
Y2511	Speech Group Therapy Add 15 Minutes	\$ 13.00
Y2512	Group Sp Lang Hear Therapy 1 Hour	\$ 52.00
Y2611	Speech Lang Hearing Therapy 20 Minutes	\$ 17.00
Y2615	Sp/Lan/Hear Therapy 60 Minutes	\$ 52.00
Y7200	Procedures And Modalities 30 Minutes	\$ 34.00
Y7201	Procedures And Modalities 45 Minutes	\$ 52.00

Implementation of the provisions of this rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0207#007

DECLARATION OF EMERGENCY

**Department of Revenue
Policy Services Division**

Use of Dyed Special Fuel by Fire Trucks
(LAC 61:L3363)

The Department of Revenue is exercising the provisions of the Administrative Procedure Act, R.S. 49:953.B, to adopt this emergency rule in accordance with the provisions of R.S. 47:1511 to provide guidance as to the information needed to be submitted for the purpose of applying for an "FD" Number as provided in R.S. 47:803.2

Act 28 of the 2002 Regular Session of the Louisiana Legislature enacted R.S. 47:801(13) defining, for the purposes of Special Fuels Tax Law, "fire trucks" to mean vehicles built with the capability of operating fire fighting equipment such as hoses, ladders, and pumps and carrying teams of firefighters to fire scenes. Act 28 also enacted R.S. 47:803.2 to allow fire departments or districts that meet certain qualifications to purchase untaxed dyed special fuel for use in the operation of fire trucks and to remit the state special fuels tax directly to the Department of Revenue on a monthly basis.

To qualify for the direct payment (FD) number, the fire department or district must certify to the Department of Revenue that the department or district does not have access to bulk storage for tax-paid undyed special fuels, that tax-paid undyed special fuel is not available within the fire district, and the only special fuel available within the fire district for use in the fire trucks is untaxed dyed special fuel.

This emergency rule is effective July 10, 2002, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the permanent rule, whichever occurs first.

Title 61

DEPARTMENT OF REVENUE

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

**Chapter 33. Petroleum Products: Special Fuels Tax
Subchapter B. Users of Special Fuel**

§3363. Use of Dyed Special Fuel by Fire Trucks

A. Before purchasing untaxed dyed special fuel to be used for taxable purposes, the fire department or district must submit a Registration Application with the Department of Revenue to obtain a direct payment "FD Number" for reporting untaxed dyed special fuel purchases and remitting the tax on the fuel used for taxable purposes.

B. The application must be made on a form as prescribed by the secretary and include the following information:

1. the vehicles and equipment for which application is being made;
2. the geographical location and boundaries of the fire district including a map of the fire district;
3. a list of service stations providing special fuel located within the fire district complete with their addresses; and
4. availability of bulk fuel storage within the fire district.

C. After an inspection by representatives of the Department, if the qualifications are met, an FD number and certificate will be issued to the applicant that will allow the fire department or district to purchase dyed special fuel for the operation of fire trucks as defined in R.S. 47:801(13).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:803.2.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Legal Affairs, Policy Services Division, LR 28:

Gary J. Matherne
Deputy Secretary

0207#042

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives CCommunity Response Initiative
and Substance Abuse Treatment Program
(LAC 67:III.Chapter 55)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953.B, the Administrative Procedure Act, to amend §§5511 and 5547 and to adopt §§5551 and 5553, effective July 1, 2002. This emergency rule will remain in effect for a period of 120 days.

Pursuant to House Bill 1 of the 2002 Regular Session of the Louisiana Legislature, the Office of Family Support will adopt two new TANF Initiatives to further the goals and intentions of the Temporary Assistance For Needy Families (TANF) Block Grant to Louisiana. Additionally, the agency will amend §5511, Micro-Enterprise Development, to make language regarding the TANF partner consistent with language in the Memorandum of Understanding (MOU). The agency initially entered into an MOU with the Office of Women's Services; however, the initiative will now be administered by the Department of Economic Development. Language in §5547, Housing Services, is being amended to revise the initiative from a pilot program to a permanent, statewide program.

The authorization for emergency action is contained in House Bill 1 of the 2002 Regular Session of the Louisiana Legislature.

Title 67 SOCIAL SERVICES

Part III. Office of Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5511. Micro-Enterprise Development

A. Effective July 1, 2002, the Office of Family Support shall enter into a Memorandum of Understanding with the Department of Economic Development to provide assistance to low-income families who wish to start their own businesses.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, HB 1, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:871 (April 2002), amended LR 28:

§5547. Housing Services

A. Effective July 1, 2002, the Department of Social Services, Office of Family Support, may enter into Memoranda of Understanding or contracts to create programs that provide transitional, short-term, or one-time housing services to needy families with minor children who participate in self-sufficiency activities, who are at risk of losing existing housing arrangements, who are in an emergency situation, or who face ineligibility because of increased earnings. These services can include but are not limited to: relocation assistance; costs associated with moving or relocation; down payment of deposit and/or initial

month's rent; short-term continuation of a housing voucher; down payment for the purchase of a house; housing counseling and home buyer education for prospective homeowners; or other transitional services determined in conjunction with the Department of Social Services and the Division of Administration.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; HB 1, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:871 (April 2002), amended LR 28:

§5551. Community Response Initiative Effective July 1, 2002

A. The Department of Social Services, Office of Family Support, may enter into Memoranda of Understanding or contracts with for-profit organizations, non-profit organizations (exempt from taxation under Section 501(c) of the Internal Revenue Code), and state or local public or quasi-public agencies, to develop innovative and strategic programming solutions suited to the unique needs of Louisiana's communities.

B. The services provided by the various partners must meet one, or a combination, of the four TANF goals:

1. to provide assistance to needy families;
2. to end dependence of needy parents by promoting job preparation, work, and marriage;
3. to prevent and reduce out-of-wedlock pregnancies; and
4. to encourage the formation and maintenance of two-parent families.

C. Eligibility for those services meeting TANF goals 1 and 2 is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children.

D. Eligibility for those services meeting TANF goals 3 and 4 may include any family in need of the provided services regardless of income. A family consists of minor children, custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children.

E. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5553. Substance Abuse Treatment Program for Office of Community Services Clients Effective July 1, 2002

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office for Addictive Disorders (OAD) wherein OFS shall fund the cost of substance abuse screening and testing and the non-medical treatment of members of needy families

referred by and receiving services in certain parish offices from the Office of Community Services (OCS).

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing needy families with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children who are members of a needy family. A needy family is a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level and in which any member receives services through OCS as Child Protection Investigation clients, Family Services clients, or Foster Care clients.

D. Services are considered non-assistance by the agency.

E. The program will be offered in the following parish offices: Orleans (Uptown District), Jefferson (West Bank), East Baton Rouge (North District), Terrebonne, St. Landry, Calcasieu, Rapides, Caddo, Ouachita, and Tangipahoa. The parish offices in which the program is available may be expanded at the assistant secretary's discretion based on the availability of funding and a determination of need.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Gwendolyn Hamilton
Secretary

0207#020

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

**TANF Initiatives CDiversion Assistance Program
(LAC 67:III.Chapter 56)**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt LAC 67:III, Subpart 15, Chapter 56, Diversion Assistance Program, effective July 1, 2002. This emergency rule will remain in effect for a period of 120 days.

Pursuant to House Bill 1 of the 2002 Regular Session of the Louisiana Legislature, the agency will implement the Diversion Assistance Program in order to further the goals and intentions of the federal Temporary Assistance for Needy Families (TANF) Block Grant, by providing assistance to needy families who have suffered a job loss or the threat of a job loss due to extraordinary and unexpected expenses. The program will provide a one-time, lump-sum, cash payment to a needy family, to avert the loss of a family

member's job or to assist the member in securing another one.

Authorization for emergency action in the matter of TANF funds is also contained in House Bill 1 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 15. Temporary Assistance to Needy Families
(TANF) Initiatives**

Chapter 56. Diversion Assistance Program (DAP)

§5601. General Authority

A. The Diversion Assistance Program (DAP) is established in accordance with state and federal laws effective July 1, 2002, to help prevent the dependence of needy families on government benefits by providing cash assistance to low-income families in order to promote job retention and work. Applications will be accepted and eligible households certified based upon the availability of funding.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and House Bill 1, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

**Subchapter A. Application, Determination of Eligibility,
and Furnishing Assistance**

§5603. Application Date

A. All individuals applying for DAP shall file a written and signed application form under penalty of perjury. The date the application form is received in the parish office shall be considered the date of application.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and House Bill 1, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5605. Standard Filing Unit

A. The mandatory filing unit includes the dependent child, the dependent child's siblings (including half and step-siblings) and the parents (including legal stepparents) of any of these children living in the home. A dependent child must be under 19 years of age. In the case of the child of a minor parent, the filing unit shall include the child, the minor parent, the minor parent's siblings (including half and step) and the parents of any of these children living in the home. Supplemental Security Income (SSI) recipients, FITAP recipients, and children receiving Kinship Care Subsidy Payments may not be included in the filing unit.

B. All persons who live in the same home and are eligible for inclusion in a DAP assistance unit as specified in §5605.A., must be included in the same certification. A separate DAP assistance unit is necessary if unrelated families living together experience an eligible crisis.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and House Bill 1, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5607. Application Time Limit

A. The time within which the worker shall dispose of the application is limited to within 30 days from the date on which the signed application is received in the local office. The payment shall be issued or the applicant shall be notified that he has been found ineligible for a payment by the 30th day, unless an unavoidable delay has occurred.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and House Bill 1, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5609. Certification Period and Payment Amounts

A. Families shall receive Diversion Assistance only once within a 12-month period with a lifetime limit of two payments.

B. The DAP payment amount shall be equal to four times the Family Independence Temporary Assistance Program (FITAP) flat grant amount applicable to the household's size as specified in LAC 67:III.1229.D

C. Adults in the assistance unit will be ineligible for FITAP benefits for four months from the effective date of certification for DAP unless certain, severe circumstances occur during that four-month period. These include but are not limited to:

1. loss of job;
2. natural disaster;
3. incapacity or disability of the adult(s); or
4. domestic violence.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and House Bill 1, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5611. Domestic Violence

A. The DAP household is subject to regulations governing domestic violence issues in accordance with LAC 67:III.1213.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and House Bill 1, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Subchapter B. Conditions of Eligibility

§5613. Citizenship

A. Citizenship requirements outlined in LAC 67:III.1223. must be met for each member included in the DAP payment.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., and House Bill 1, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5615. Enumeration

A. Each applicant for DAP is required to furnish a Social Security number or to apply for a Social Security number if such a number has not been issued or is not known.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and House Bill 1, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5617 Living in the Home of a Qualified Relative

A. A child must reside in the home of a parent or other qualified relative who is responsible for the day-to-day care of the child. Benefits will not be denied when the qualified relative or the child is temporarily out of the home. Good cause must be established for a temporary absence of more than 45 days. The following relatives are qualified relatives and these may be either biological or adoptive relatives:

1. grandfather or grandmother (extends to great-great-great);
2. brother or sister (including half-brother and half-sister);
3. uncle or aunt (extends to great-great);

4. first cousin (including first cousin once removed);
5. nephew or niece (extends to great-great);
6. stepfather or stepmother;
7. stepbrother or stepsister.

B. Eligibility for assistance for minor unmarried parents shall require that the individual and dependent child reside in the residence of the individual's parent, legal guardian, other relative, or in a foster home, maternity home or other adult-supervised supportive living arrangement, and that where possible, aid shall be provided to the parent, legal guardian or other adult relative on behalf of the individual and dependent. The following exceptions apply:

1. the minor parent has no parent or guardian (of his or her own) who is living and whose whereabouts are known;

2. no living parent or legal guardian allows the minor parent to live in his/her home;

3. the minor parent lived apart from his/her own parent or legal guardian for a period of at least one year before the birth of the dependent child or the parent's having made application for DAP;

4. the physical or emotional health or safety of the minor parent or dependent child would be jeopardized if he/she resided in the same household with the parent or legal guardian;

5. there is otherwise good cause for the minor parent and dependent child to receive assistance while living apart from the minor parent's parent, legal guardian or other adult relative, or an adult-supervised supportive living arrangement.

C. Essential persons are individuals who may be included in the DAP payment and are defined as follows:

1. a person providing child care which enables the qualified relative to work full-time outside the home;

2. a person providing full-time care for an incapacitated family member living in the home;

3. a person providing child care that enables the qualified relative to receive full-time training;

4. a person providing child care that enables a qualified relative to attend high school or General Education Development (GED) classes full-time;

5. a person providing child care for a period not to exceed two months that enables a caretaker relative to participate in employment search or another FITAP work program; or

6. children not within the degree of relationship to be DAP eligible who live in the home and who meet all other DAP requirements.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and House Bill 1, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5619 Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining eligibility and payment amounts except income from:

1. adoption assistance;
2. earned income of a child, including a minor unmarried parent, who is in school and working toward a high school diploma, GED, or special education certificate.
3. disaster payments;
4. Domestic Volunteer Service Act;

5. Earned Income Credits (EIC);
6. education assistance;
7. energy assistance;
8. foster care payments;
9. monetary gifts up to \$30 per calendar quarter;
10. Agent Orange Settlement payments;
11. HUD payments or subsidies other than those paid as wages or stipends under the HUD Family Investment Centers Program;
12. income in-kind;
13. Indian and Native Claims and Lands;
14. irregular and unpredictable sources;
15. lump sum payments;
16. nutrition programs;
17. job training income that is not earned;
18. relocation assistance;
19. a bona fide loan which is considered bona fide if the client is legally obligated or intends to repay the loan;
20. Supplemental Security Income;
21. Wartime Relocation of Civilians Payments;
22. Developmental Disability Payments;
23. Delta Service Corps post-service benefits paid to participants upon completion of the term of service if the benefits are used as intended for higher education, repayment of a student loan, or for closing costs or down payment on a home;
24. Americorps VISTA payments to participants (unless the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage);
25. Radiation Exposure Compensation Payments;
26. payment to victims of Nazi persecution;
27. restricted income received for a person not in the assistance unit or not in the income unit. Restricted income is income which is designated specifically for a person's use by federal statute or court order and may include RSDI, VA benefits and court ordered-support payments;
28. crime victim compensation program payments to an applicant/recipient whose assistance is necessary, in full or in part, because of the commission of a crime against the applicant, and to the extent it is sufficient to fully compensate the applicant for losses suffered as a result of the crime; or
29. post-FITAP payments.

B. Income Eligibility Standards

1. The income eligibility standards for DAP shall be based on gross income with no income disregards.
 - a. Gross income shall be 130 percent of the Office of Management and Budget's (OMB) nonfarm income poverty guidelines for the 48 states and the District of Columbia.
 - b. The income eligibility limits, as described in this Paragraph, are revised annually, to reflect OMB's annual adjustment to the nonfarm poverty guidelines for the 48 states and the District of Columbia, for Alaska, and for Hawaii.

C. Income and Resources of Alien Sponsors

1. In determining the eligibility and benefits of an alien with an affidavit of support executed under 213A of the INA (8 U.S.C. 1183a), the income and resources of the sponsor and the sponsor's spouse shall be considered except

as follows in §5619.C.a-b. This attribution shall continue for the period prescribed in 8 U.S.C. 1631.

a. Indigence exception: if an alien has been determined indigent, as provided in 8 U.S.C. 1631(e), the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the alien shall not exceed the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date.

b. Special rule for battered spouse and child: if an alien meets the requirements of the special rule for a battered spouse or child, as provided in 8 U.S.C. 1631(f), and subject to the limitations provided therein, the provisions of §5619.C.1. shall not apply during a twelve-month period. After a twelve-month period, the batterer's income and resources shall not be considered if the alien demonstrates that the battery and cruelty as defined in 8 U.S.C. 1631(f)(1) has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty has, in the Department's opinion, a substantial connection to the need for benefits.

2. The agency has opted not to apply the deeming rule of 42 U.S.C. 608 in determining the eligibility and benefits of non-213A.

D. Income of Alien Parent

1. When determining eligibility, income of an alien parent who is disqualified is considered available to the otherwise eligible child. The needs and income of disqualified alien siblings are not considered in determining the eligibility of an otherwise eligible dependent child.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and House Bill 1, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5621. Residency

A. DAP recipients must reside in Louisiana with intent to remain.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and House Bill 1, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5623. Resources

A. The DAP household is subject to regulations governing FITAP resources in accordance with LAC 67:III.1235.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and House Bill 1, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5625. Work Requirements

A. At least one adult member of the income unit must have worked for pay at least 40 hours or earned the equivalent of 40 times the federal minimum wage during any 30-day period within the 3 months preceding the date of application.

B. Adult members of the income unit shall register for work with the Louisiana Department of Labor Job Center, unless receiving unemployment compensation benefits, and provide verification of registration. An exemption from work registration may be allowed if there are bonafide reasons or hardships which would negate any possible benefit of registration. These can include but are not limited to:

1. disability of an adult member;
2. the adult member is needed to provide care for a disabled household member;
3. certain domestic violence situations; or
4. transportation problems.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and House Bill 1, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5627 Job Loss Factors

A. A DAP payment may be made to a family with dependent children who is experiencing an employment-related crisis. An eligible crisis is a job loss or barrier to employment due to a significant, out-of-the-ordinary expense that could be paid with a one-time cash benefit. The causative factor leading to the crisis and necessary expenditure, must be verified and can include but is not limited to:

1. loss or lack of transportation;
2. loss or lack of tools necessary for employment;
3. eviction, threat of eviction, or some other housing emergency;
4. a need for job skills training certification or licensing;
5. loss of clothing through fire, flood, or theft, or loss or lack of appropriate work attire;
6. escape from domestic violence; or
7. serious injury of the individual or dependent child.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and House Bill 1, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5629 Fleeing Felons and Probation/Parole Violators

A. DAP household shall be subject to regulations governing fleeing felons and probation/parole violators in accordance with LAC 67:III.1251.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and House Bill 1, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5631. Strikers

A. DAP payments cannot be paid to families in which the caretaker relative or stepparent is participating in a strike on the last day of the month and, if any other member of the household is participating in a strike, his or her needs cannot be considered in computing the DAP payment.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and House Bill 1, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Gwendolyn P. Hamilton
Secretary

0207#019

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

TANF Initiatives C Individual Development
Account Program and Energy Assistance
Program for Low-Income Families
(LAC 67:III.1235, 5555, and 5557)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953.B, the Administrative Procedure Act, to adopt §§5555 and 5557 as part of the TANF Initiatives and to amend §1235 of the Family Independence Temporary Assistance Program (FITAP), effective July 1, 2002. This Emergency Rule will remain in effect for a period of 120 days.

Pursuant to Act 1098 of the 2001 Regular Session of the Louisiana Legislature and Act 84 of the 2002 Regular Session of the Louisiana Legislature, OFS shall adopt §5555, the Individual Development Account (IDA) Program, to provide asset and savings opportunities to low-income families for specific purposes as well as provide financial management education. The agency will contract with qualified non-profit organizations, or state or local governments who work with non-profit organizations, to develop and administer the IDA Program for low-income families.

Additionally, the agency proposes to amend §1235 in FITAP by revising the IDA excludable resource to coincide with federal regulations as stated in the new program.

Pursuant to House Bill 1 of the 2002 Regular Session of the Louisiana Legislature, the agency will adopt §5557, Energy Assistance for Low-Income Families, to make payments to utility companies on behalf of low-income families in order to further the goals and intentions of Louisiana's Temporary Assistance For Needy Families (TANF) Block Grant.

Authorization for emergency action in this matter is contained in House Bill 1 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1235. Resources

A. Assets are possessions which a household can convert to cash to meet needs. The maximum resource allowable for an assistance unit is \$2,000. All resources are considered except:

1. - 20. ...

21. an Individual Development Account (IDA) which is a special account established in a financial institution for specific purposes. Only one IDA per assistance unit is allowed. The balance of the account cannot exceed \$6000, including interest, at any time. IDA funds may be used for one of three purposes. Withdrawal of funds for purposes other than those listed below shall be deemed as a countable resource. Effective July 1, 2002, IDA funds may be used for the following purposes only:

a. postsecondary educational expenses paid from an IDA directly to an eligible educational institution;

b. first home purchaseCqualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer, if paid from an IDA directly to the persons to whom the amounts are due.

c. business capitalizationCamounts paid from an IDA directly to a business capitalization account which is established in a federally-insured financial institution and is restricted to use solely for qualified business capitalization expenses.

A.22. - B. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2, P.L. 106-387.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999), amended LR 27:736 (May 2001), LR 27:866 (June 2001), LR 28:1031 (May 2002), LR 28:

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5555. Individual Development Account Program

Effective July 1, 2002

A. OFS shall establish the Individual Development Account (IDA) Program to provide asset and savings opportunities to low-income families for specific purposes as well as provide financial management education. The agency will contract with qualified non-profit organizations, or state or local governments who work with non-profit organizations, to develop and administer the IDA Program for low-income families.

B. An IDA is a financial account established by, or on behalf of, an individual eligible for assistance to allow that individual to accumulate funds for specific purposes. Funds deposited into the account may be matched by the agency using Temporary Assistance For Needy Families (TANF) Block Grant funds. The balance of the account cannot exceed \$6000, including interest, at any time. Funds deposited by the individual into the account must be derived from earned income. All matching contributions must be deposited in a separate matching fund account and used in accordance with the purposes outlined in §5555.C. The program will also provide financial management and organization education to eligible families.

C. IDA funds may be used for the following qualified purposes only:

1. postsecondary educational expenses paid from an IDA directly to an eligible educational institution;

2. first home purchaseCqualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer, if paid from an IDA directly to the persons to whom the amounts are due.

3. business capitalizationCamounts paid from an IDA directly to a business capitalization account which is established in a federally-insured financial institution and is restricted to use solely for qualified business capitalization expenses.

D. Definitions

Eligible Educational InstitutionC

a. an institution described in section 481(a)(1) or 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1) or 1141(a)), as such sections are in effect on the date of the enactment of this subsection [enacted August 22, 1996].

b. an area vocational education school (as defined in Subparagraph (C) or (D) of Section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)), which is in any State (as defined in section 521(33) of such Act [20 USCS §521(33)]), as such sections are in effect on the date of the enactment of this subsection [enacted August 22, 1996].

Post-Secondary Educational ExpensesCtuition and fees required for the enrollment or attendance of a student at an eligible education institution, and fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

Qualified Acquisition CostsCthe costs of acquiring, constructing, or reconstructing a residence. The term includes any usual or reasonable settlement, financing, or other closing costs.

Qualified BusinessCany business that does not contravene any law or public policy (as determined by the federal secretary of the Department of Health and Human Services).

Qualified Business Capitalization ExpensesCqualified expenditures for the capitalization of a qualified business pursuant to a qualified plan.

Qualified ExpendituresCexpenditures included in a qualified plan including capital, plant, equipment, working capital, and inventory expenses.

Qualified First-Time HomebuyerCa taxpayer (and if married, the taxpayer's spouse), who has no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principle residence to which this subsection applies. Date of acquisition means the date on which a binding contract to acquire, construct, or reconstruct the principal residence to which this subparagraph applies is entered into.

Qualified PlanCa business plan which:

a. is approved by a financial institution, or by a nonprofit loan fund having demonstrated fiduciary integrity;

b. includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and

c. may require the eligible individual to obtain the assistance of an experienced entrepreneurial advisor.

Qualified Principal ResidenceCa principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986 [26 USCS §1034]), the qualified acquisition costs of which do not exceed 100 percent of the average area purchase price applicable to such residence (determined in accordance with paragraphs (2) and (3) of section 143(e) of such Code [26 USCS §143(e)]).

E. These services meet the TANF goal to provide assistance to needy families so that children may be cared for in their own homes or in homes of relatives.

F. Eligibility is limited to low-income families at or below 200 percent of the federal poverty level.

G. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Act 1098, 2001 Reg. Session; and Act 84, 2002 First Extraordinary Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5557. Energy Assistance Program for Low-Income Families Effective July 1, 2002

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Louisiana Housing Finance Agency (LHFA) to provide energy assistance to low-income families based on the availability of funding and a determination of need by the agency, and to educate those families regarding energy conservation. The energy assistance payments shall be provided to LHFA for reimbursement of payments made to utility companies by LHFA on behalf of needy families with minor children.

B. The Office of Family Support hereby declares that all families who have earned income at or below 200 percent of the federal poverty level are in need of energy assistance. Each family's episode of need is evidenced by the seeking of energy assistance under this program.

C. Services meet the TANF goal of providing assistance to needy families so that children may be properly cared for in their own homes or in the homes of relatives by providing funds to help pay the costs of cooling and heating the homes.

D. Eligibility for services is limited to a needy family, that is, a family with minor children who has earned income at or below 200 percent of the federal poverty level.

E. Services are considered non-assistance by the agency as the payments are non-recurrent, short-term, and will not be provided more than once every six months.

F. The payment process will be administered by an outside entity through a contractual agreement. Recipients will be required to provide verification of identity and eligibility as defined for a "needy family" as well as proof of residency at the utility service address. An energy assistance payment of up to \$400 will be paid by LHFA directly to the recipient's utility company or provider. The payment may be used for past-due deposits, reconnection fees, current bills, or as credit towards future services.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and HB 1, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Gwendolyn Hamilton
Secretary

0207#021

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

**Teen Pregnancy Prevention Program
(LAC 67:III.5403 and 5405)**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953.B, to amend §§5403 and 5405 in the Teen Pregnancy Prevention Program effective July 1, 2002. This emergency rule will remain in effect for a period of 120 days.

Whereas research has shown that when individuals become sexually active at a younger age, there are negative consequences for both male and female teens including a greater likelihood of involuntary or unwanted sex, multiple sexual partners, a sexually-transmitted disease, and pregnancy and teen birth; and whereas research has shown that when teens give birth, their offspring have less supportive and stimulative home environments, lower cognitive development and educational achievement, increased behavior problems, poorer health, and are more likely to become teen parents themselves, an emergency rule is needed to expand the population being addressed by the Teen Pregnancy Prevention Program. Therefore, the agency will expand the targeted groups of participants in the program from 11-19 years to 8-21 years.

Emergency rulemaking for the expenditure of TANF funds has been authorized by House Bill 1 of the 2002 Regular Session of the Louisiana Legislature.

A Notice of Intent concerning this rule has been published in the June issue of the *Louisiana Register* and a final rule is expected to be published in September 2002.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 14. Teen Pregnancy Prevention

Chapter 54. Teen Pregnancy Prevention Program

§5403. Strategy

A. - B. ...

C. There are three target groups involved in reducing teen pregnancy:

1. effective July 1, 2002, 8-21 year old students and non-students;

C.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:1019 (July 2001), amended LR 28:

§5405. Goals and Objectives

A. Effective July 1, 2002, the program objective is to create community, faith- and school-based programs which will present age-appropriate educational material to a targeted population ranging in age from 8-21 years. This

includes elementary, middle, high school, and college students and others in this age group who are no longer in school. All services are provided by contracted providers.

B. To reduce the number of births, intermediate goals are established according to age groups.

1. Effective July 1, 2002, for the children aged 8-13 (grades 3-8), the following intermediate goals have been set:

1.a. - 2.g ...

3. Effective July 1, 2002, for teenagers and young adults aged 17-21 (upper high school, college, non-students, current teen parents), the same goals in §5405.B.2 will apply with the addition of the following:

a. - c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:1019 (July 2001), amended LR 28:

Gwendolyn P. Hamilton
Secretary

0207#018

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Commercial Red Snapper Closure

In accordance with the emergency provisions of R.S. 49:953B, the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department by the Commission in its resolution of January 3, 2002 to close the 2002 spring commercial red snapper season in Louisiana state waters when he is informed that the designated portion of the commercial red snapper quota for the Gulf of Mexico has been filled, or is projected to be filled, the Secretary hereby declares:

Effective 12:00 noon, July 7, 2002, the commercial fishery for red snapper in Louisiana waters will close and remain closed until 12:00 noon, October 1, 2002. Nothing herein shall preclude the legal harvest of red snapper by legally licensed recreational fishermen once the recreational season opens. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell red snapper. Effective with closure, no person shall possess red snapper in excess of a daily bag limit, which may only be in possession during the open recreational season as described above. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing red snapper taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5.

The Secretary has been notified by National Marine Fisheries Service that the commercial red snapper season in Federal waters of the Gulf of Mexico will close at 12:00 noon, July 7, 2002. Closing the season in state waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

James H. Jenkins, Jr.
Secretary

0207#035

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Shrimp Season Closure CZone 1

In accordance with the emergency provisions of R.S. 49:953B and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 2, 2002, which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2002 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the Secretary hereby declares:

The 2002 spring inshore shrimp season in that part of Shrimp Management Zone 1 which is south and west of the Mississippi River Gulf Outlet (MRGO), and south of the Gulf Intracoastal Waterway from its juncture with the MRGO to its juncture with the Industrial Canal, will close on Tuesday, July 2, at 6 a.m. The remainder of Zone 1, including the waters of the MRGO, Breton and Chandeleur Sounds as described in the Menhaden Rule (LAC 76:VII.307D), Lakes Pontchartrain and Borgne, and all waters east and north of the MRGO will remain open to shrimping until further notice. The number of small white shrimp in these areas has increased substantially in the last week and the region is being closed to protect these immigrating shrimp.

The remaining portion of Zone 1 and all of Zone 3 will remain open until further notice.

The State Territorial waters south of the Inside/Outside Shrimp Line, as described in R.S. 56:495, shall remain open.

James H. Jenkins Jr.
Secretary

0207#022

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

2002 Spring Inshore Shrimp Season

In accordance with the emergency provisions of R.S. 49:953.B and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 2, 2002 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2002 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the Secretary hereby declares:

The 2002 spring inshore shrimp season will close in Shrimp Management Zone 2, on Friday, June 28, at 6 a.m. This closure includes all Louisiana inshore waters from the eastern shore of South Pass of the Mississippi River to the western shore of Vermilion Bay and Southwest Pass at Marsh Island. The number of small white shrimp in these areas has increased substantially in the last week and the region is being closed to protect these immigrating shrimp.

Zones 1 and 3 will remain open until further notice.

The State Territorial waters south of the Inside/Outside Shrimp Line, as described in R.S. 56:495, shall remain open.

James H. Jenkins, Jr.
Secretary

0207#003

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

2002 Wild Alligator Season

In accordance with the emergency provisions of R.S. 49:953B and R.S. 49:967.D of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set seasons, the Wildlife and Fisheries Commission does hereby set the 2002 wild alligator harvest season.

The 2002 wild alligator harvest season shall be from official sunrise, August 28, 2002, through official sunset, September 30, 2002. Alligators taken from the wild may be removed from hook and line and taken with other legal capture devices only during daylight hours between official sunrise and official sunset.

Emergency procedures are necessary to allow Department biologists adequate time to gather the biological data required to recommend season dates and harvest quotas.

The Wildlife and Fisheries Commission does hereby also authorize the Secretary of the Department of Wildlife and Fisheries to delay, extend, close or reopen this season based on technical data or if enforcement problems develop.

Thomas M. Gattle, Jr.
Chairman

0207#023

Rules

RULE

Department of Culture, Recreation and Tourism Office of the State Library

Patrons Right to Privacy, State Library Processing Center;
Public Library Construction; Health and Correctional
Institution Libraries; Auditorium and Conference
Room-Use by Public; Deposit of Publications;
Depository Library System
(LAC 25:VII.Chapters 5, 11, 21, 25, 27, 43, and 45)

Editor's Note: LAC 25:VII.2705, Patron's Rights, has been moved to LAC 25:VII.507. The text of this Section has not been changed, but moved to be incorporated into similar subject matter.

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Libraries, Museums, and other Scientific and Cultural Facilities Law (R.S. 25:8 et seq.), the Office of the State Library has repealed and amended Rules of the State Library of Louisiana.

Title 25

CULTURAL RESOURCES

Part VII. State Library

Subpart 1. Readers' Services

Chapter 5. Services

§507. Patrons' Right to Privacy (formerly §2705)

A. State Library employees shall not divulge information regarding the materials used by any patron nor shall they identify the users of particular library materials without the consent of the individuals concerned. Such privileged client information will only be made available by the State Library on order from a court of competent Jurisdiction.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repromulgated by Department of Culture, Recreation and Tourism, Office of the State Library LR 28:1576 (July 2002).

Subpart 2. Library Technical Services

Chapter 11. State Library Processing Center

§1101. Processing Center Functions

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:1576 (July 2002).

§1103. Conditions for Membership

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:1576 (July 2002).

§1105. Space and Staff

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:1576 (July 2002).

§1107. Processing Center Agreement with Member Libraries

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:1576 (July 2002).

§1109. Processing Center Charge to Institutional Libraries

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:1576 (July 2002).

Part VII. State Library

Subpart 3. Library Development

Chapter 21. Public Library Construction

§2101. Administration

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, Office of the State Library of Louisiana, LR 18:1356 (December 1992), repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:1576 (July 2002).

§2103. Definition

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, Office of the State Library of Louisiana, LR 18:1356 (December 1992), repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:1576 (July 2002).

§2105. Rules Governing Administration of the Act

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Adopted by the Louisiana State Library, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 18:1356 (December 1992), LR 22:12 (January 1996), repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:1576 (July 2002).

Chapter 25. Libraries in State's Health and Correctional Institution

§2501. Services

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:1577 (July 2002).

§2503. State Library Agreement with Individual Institutions

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974 repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:1577 (July 2002).

§2505. Agreement

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism Office of the State Library, LR 28:1577 (July 2002).

Chapter 27. Auditorium and Conference RoomC Use by Public

§2701. Details

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:1577 (July 2002).

§2703. Equipment Use

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:1577 (July 2002).

Chapter 43. Deposit of Publications

§4303. Public Documents Required to be Deposited

A. The public documents required to be deposited are those defined in R.S. 25:121.1. "*Public Document*" means informational matter, regardless of format, method of reproduction, source, or copyright, originating in or produced with the imprint of, by the authority of, or at the total or partial expense of, any state agency, including material published with federal funds or by sub-state planning districts. This definition incorporates publications released by private bodies such as research and consultant firms under a contract with and/or under the supervision of any state agency. Further, this definition specifically includes journals, laws or bills, statutes, codes, rules, regulations; newsletters, bulletins, state plans, brochures, periodicals or magazines; minutes of meetings of boards and commissions, transcripts of public hearings; reports, directories, statistical compendiums, bibliographies, pamphlets, lists, books; charts, maps, surveys; other printed matter; microfilm, microfiche, audiovisuals; electronic documents. "*Electronic Documents*" denotes any discrete public document published in a static electronic or digital format, i.e., CD-ROM, web

document, floppy disk, etc. Whenever possible, paper is the preferred format for deposit with the recorder of documents. Excluded from the definition of public documents are correspondence, interoffice or intra-office memoranda, records of an archival nature; interactive, non-discrete, constantly changing electronic items such as Web sites, databases, ASP (active server pages), or software programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 28:1577 (July 2002).

§4305. Public Documents not Required to be Deposited

A. ...

B. Complete Web sites are excluded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122.B.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 28:1577 (July 2002).

§4311. Liaison Officer of Agencies

A. The head of every state agency shall designate one of its staff members as the liaison officer for the agency and shall notify the recorder of documents on or before the first day of July of the identity of the liaison officer, and shall immediately notify the recorder of documents of any new liaison officer should a change occur. If a liaison officer is not appointed, the head of the agency serves as liaison by default. The liaison officer of each state agency shall have the duty to provide the recorder of documents with required copies of publications in whatever format they were originally published and to submit the URL's of Internet documents. The liaison officer shall compile and forward to the recorder of documents lists of the public documents of the agency, and to provide other related information as may be requested by the recorder of documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122.B.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 28:1577 (July 2002).

§4313. Application of Rules

A. If the liaison officer is in doubt whether a specific publication is required to be deposited as set forth in the above rules, or if the number of copies to be deposited is burdensome because of cost or numbers published, or if the number of copies to be deposited is uncertain, the liaison officer of the agency shall consult with the recorder of documents for assistance in interpreting the regulations. If the agency is not satisfied with the determination of the recorder of documents, a written request should be submitted to the state librarian, who shall make the final ruling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122.B.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 28:1577 (July 2002).

Chapter 45. Depository Library System

§4501. Statutory Depositories

A. Louisiana State Library and Louisiana State University Library at Baton Rouge are legally designated complete depository libraries. They shall be the historical depository libraries, shall receive two copies of all public documents received by the recorder for distribution, and

shall retain permanently one copy of each. The State Library of Louisiana is responsible for archiving and providing permanent public access to documents it receives that are issued solely in electronic formats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122.B.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 28:1577 (July 2002).

§4503. Other Depositories

A. Libraries including those in state agencies and other institutions in Louisiana wishing to receive public documents through the depository system shall submit a written application to the state librarian requesting designation as a complete depository, or a selective depository. Special depository status is limited to the David R. Poynter Legislative Research Library.

1. Complete depositories shall receive one copy of all public documents received by the recorder of documents for distribution and shall retain one copy for a minimum of six years.

2. Selective depositories shall receive one copy of the core collection and all public documents received by the recorder for distribution in the predetermined categories they select and shall retain one copy for a minimum of six years. Those libraries selecting only the core collection shall retain the latest edition of each document received.

3. The special depository shall follow standard selection procedures and shall comply with the contract made with the state librarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122.B.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 28:1578 (July 2002).

Gary O. Rolstad
Associate State Librarian

0207#012

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

**Control of Emissions of Nitrogen Oxides (NO_x)
(LAC 33:III.2201)(AQ224)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.2201 (Log #AQ224).

This revision of LAC 33:III.Chapter 22, Control of Emissions of Nitrogen Oxides, lowers the regulatory threshold for lean-burn internal combustion engines in the Baton Rouge Nonattainment Area from 1500 to 320 horsepower. The rule also revises the definitions for *peaking service* and *cap* and ensures that the allowance trading program is consistent with LAC 33:III.605 and 607. The regulatory threshold for lean-burn internal combustion engines located in the Baton Rouge Nonattainment Area is being revised in order to meet Reasonably Available Control

Technology (RACT) requirements for NO_x emissions in the ozone nonattainment parishes. This rule also revises the Louisiana State Implementation Plan (SIP). The basis and rationale for this rule are to protect air quality in Louisiana and to comply with the NAAQS for ozone.

This rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

Chapter 22. Control of Emissions of Nitrogen Oxides (NO_x)

§2201. Affected Facilities in the Baton Rouge Nonattainment Area and the Region of Influence

A. - A.3. ...

B. Definitions. Unless specifically defined in this Subsection or in LAC 33:III.111 or 502, the words, terms, and abbreviations in this Chapter shall have the meanings commonly used in the field of air pollution control. For purposes of this Chapter only, the following definitions shall supersede any definitions in LAC 33:III.111 or 502.

CapCa system for demonstrating compliance whereby an affected facility, a subset of affected sources at an affected facility, or a group of affected facilities under common control are operated to stay below a mass emission rate expressed as mass per unit of time. The allowable mass emission rate is calculated by adding the allowable emissions for each affected point source. The allowable emission is the product of the source's average hourly heat input in MMBtu/hour (not to exceed any applicable permit limitations) based on the highest consecutive 30-day period during the ozone seasons of 2000 and 2001 and the applicable factor in Paragraph D.1 of this Section.

Peaking ServiceCa stationary gas turbine that is operated intermittently to produce energy. To be in peaking service, the annual electric output (MW-hour) for the affected point source shall be less than the product of 2500 hours and the MW rating of the turbine.

Trading Allowances—the tons of NO_x emissions that result from over-controlling, permanently reducing the operating rate of, or permanently shutting down, an affected point source located within the Baton Rouge Nonattainment Area or the Region of Influence. The allowances are determined in accordance with LAC 33:III.607.C and from the emission factors required by Subsection D of this Section for the affected point source and the enforceable emission factor assigned by the owner or operator in accordance with Subsection E of this Section. Baseline emissions shall be the lower of actual emissions or adjusted allowable emissions, as defined in LAC 33:III.605. Trading allowances will be granted only for reductions that are real, quantifiable, permanent, and federally enforceable. NO_x reductions that are used in a facility-wide averaging plan cannot also be used in a trading plan.

C. - C.3. ...

- a. rich-burn engines with a rating of less than 300 horsepower (Hp);
- b. lean-burn engines with a rating of less than 320 Hp in the Baton Rouge Nonattainment Area; and
- c. lean-burn engines with a rating of less than 1500 Hp in the Region of Influence;

C.4. - 20. ...

D. Emission Factors

1. The following table lists NO_x emission factors that shall apply to affected point sources located at affected facilities in the Baton Rouge Nonattainment Area or the Region of Influence.

NO _x Emission Factors		
Category	Maximum Rated Capacity	NO _x Emission Factor ^a
Electric Power Generating System Boilers:		
Coal-fired	>= 80 MMBtu/Hour	0.21 pound/MMBtu
Number 6 Fuel Oil-fired	>= 80 MMBtu/Hour	0.18 pound/MMBtu
All Others (gaseous or liquid)	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Industrial Boilers	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Process Heater/Furnaces:		
Ammonia Reformers	>= 80 MMBtu/Hour	0.23 pound/MMBtu
All Others	>= 80 MMBtu/Hour	0.08 pound/MMBtu
Stationary Gas Turbines:		
Peaking Service, Fuel Oil-fired	>= 10 MW	0.30 pound/MMBtu
Peaking Service, Gas-fired	>= 10 MW	0.20 pound/MMBtu
All Others	>= 10 MW	0.16 pound/MMBtu ^b
Stationary Internal Combustion Engines:		
Lean-burn (Region of Influence)	>= 1500 Hp	4g/Hp-hour
Lean-burn (Baton Rouge Nonattainment Area)	>= 320 Hp	4g/Hp-hour
Rich-burn	>= 300 Hp	2g/Hp-hour

^a all factors are based on the higher heating value of the fuel.

^b equivalent to 42 ppmv (15 percent O₂, dry basis) with an F factor of 8710 dscf/MMBtu.

D.2. - 2.c. ...

3. For affected point sources in an electric power generating system, the emission factors from Subsection D of this Section shall apply as the mass of NO_x emitted per unit of heat input (pound NO_x per MMBtu), on a 30-day rolling average basis. Alternatively, a facility may choose to comply with a ton per day or a pound per hour cap provided that monitoring is installed, calibrated, maintained, and operated to demonstrate compliance with the cap. The cap for a facility or for multiple facilities under common control is calculated by adding the products of the factor from Paragraph D.1 of this Section and the average hourly heat input in MMBtu/hour (not to exceed any applicable permit limitations) based on the highest consecutive 30-day period during the ozone seasons of 2000 and 2001 for each affected point source as follows:

$$Cap (tpd) = 0.012 \times \sum_{i=1}^N (R_{li} \times HI_i)$$

Where:

HI_i = the average hourly heat input based on the highest consecutive 30-day period during the ozone seasons of 2000 and 2001 of each point source (MMBtu/hour)

i = each point source included in the cap

N = the total number of point sources included in the cap

R_{li} = the limit for each point source from Subsection D of this Section (pound NO_x/MMBtu)

4. For all other affected point sources, the emission factors from Subsection D of this Section shall apply as the mass of NO_x emitted per unit of heat input (pound NO_x per MMBtu), on a 30-day rolling average basis. Alternatively, a facility may choose to comply with a cap as detailed in Paragraph D.3 of this Section provided a system, approved by the department, is installed, calibrated, maintained, and operated to demonstrate compliance.

D.5. - 9. ...

E. Alternative Plans

1. Facility-Wide Averaging Plan. A facility-wide averaging plan is established in this Chapter for single affected facilities and multiple affected facilities that are owned or operated by the same entity. For sources located within the Baton Rouge Nonattainment Area or the Region of Influence, an owner or operator of one or more affected facilities may use the facility-wide averaging plan as an alternative means of compliance with the emission factors from Subsection D of this Section. A request for approval to use a facility-wide averaging plan, that includes the details of the plan, shall be submitted to the department either separately or with the permit application or in the optional compliance plan described in Paragraph F.7 of this Section. A facility-wide averaging plan submitted under this provision shall be approved if the department determines that it will provide emission reductions equivalent to or more than that required by the emission factors in Subsection D of this Section and the plan establishes satisfactory means for determining initial and continuous compliance, including appropriate monitoring and recordkeeping requirements. Approval of the alternative plans by the administrative authority does not necessarily indicate automatic approval by the administrator.

E.1.a. ...

b. An owner or operator of an electric power generating system that chooses to use an averaging plan shall demonstrate compliance by either of the following methods:

E.1.b.i. - ii. ...

c. Owners or operators of all other affected point sources that choose to use an averaging plan shall demonstrate compliance by either of the following methods:

i. operating such that each affected point source does not exceed its assigned individual limit in pound NO_x/MMBtu on a 30-day rolling average basis; or

ii. complying with a cap as described in Paragraph D.3 of this Section, provided a system, approved

by the department, is installed, calibrated, maintained, and operated to demonstrate compliance with the cap.

E.1.d. - i. ...

2. Trading Plan. Trading is established in this Chapter as an alternate means of compliance with the emission factors from Subsection D of this Section. Within the Baton Rouge Nonattainment Area and the Region of Influence, trading allowances, as defined in Subsection B of this Section, may be traded between affected facilities owned by different companies in a manner consistent with LAC 33:III.617.C.3. The approval to use trading shall be requested in the permit application or in the optional compliance plan described in Paragraph F.7 of this Section. A trading plan submitted under this provision shall be approved if the department determines that it will provide NO_x emission reductions equivalent to or more than that required by the emission factors of Subsection D of this Section and the plan establishes satisfactory means for determining ongoing compliance, including appropriate monitoring and recordkeeping requirements. Approval of trading plans by the administrative authority does not necessarily indicate automatic approval of the administrator.

F. - H.3.b.vi. ...

4. The owner or operator of stationary internal combustion engines that are subject to this Chapter shall demonstrate continuous compliance as follows:

H.4.a. - J.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:290 (February 2002), repromulgated LR 28:451 (March 2002), amended LR 28:1578 (July 2002).

James H. Brent, Ph.D.
Assistant Secretary

0207#014

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

**Corrective Action Management Units
(LAC 33:V.2601)(HW081*)**

Editor's Note: The following section of Rule HW081* is being repromulgated to correct citations. The full text of this Rule can be viewed on pages 1190-1197 of the June 20, 2002 edition of the *Louisiana Register*.

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.109, 2601, 2602, 2603, 2605, and 2607 (Log #HW081*).

This rule is identical to federal regulations found in 67 FR 2962, January 22, 2002, No. 14, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the rule;

therefore, the rule will be promulgated in accordance with R.S. 49:953.F.(3) and (4).

Corrective Action Management Units (CAMUs) are special units created under the Resource Conservation and Recovery Act (RCRA) to facilitate treatment, storage, and disposal of hazardous wastes managed for implementing cleanup, and to remove the disincentives to cleanup that the application of RCRA to these wastes can sometimes impose. The original CAMU regulations were promulgated on February 16, 1993. The state is adopting the federal amendments verbatim.

The previous LAC 33:V.2603.Temporary Units (TU) is moved to §2604. Text remains the same. In this rule §2603 is now titled "Corrective Action Management Units (CAMUs)." This rule amends the 1993 CAMU rule in six ways. It establishes a specific definition, distinct from the definition of remediation waste, to govern the types of wastes that are eligible for placement in CAMUs. More detailed minimum design and operating standards are established for CAMUs in which waste will remain after closure, with opportunities for the administrative authority of an authorized state to approve alternate design standards under certain circumstances. Treatment requirements are established for wastes that are placed in CAMUs, including minimum treatment standards, with opportunities to adjust treatment requirements under certain circumstances. More specific information is required for CAMU applications, and there shall be public notice and a reasonable opportunity for public comment before final CAMU determinations are made. New requirements are established for CAMUs that will be used only for treatment and storage. Certain types of existing CAMUs will be "grandfathered" and allowed to continue to operate under the 1993 rule. The rule also amends the regulations for "staging piles" to expressly allow for mixing, blending, and other similar physical operations intended to prepare wastes for subsequent management or treatment. It also adds a new provision allowing off-site placement of hazardous CAMU-eligible waste in hazardous waste landfills, if the waste is treated to meet CAMU treatment standards (somewhat modified). The basis and rationale for this rule are to mirror the federal regulations and to maintain state and federal equivalency in the RCRA program.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—

Hazardous Waste

Chapter 26. Corrective Action Management Units and Special Provisions for Cleanup

§2601. Applicability of Corrective Action Management Unit (CAMU) Regulations

A. Except as provided in Subsection B of this Section, CAMUs are subject to the requirements of LAC 33:V.2603.

B. CAMUs that were approved before April 22, 2002, or for which substantially complete applications (or equivalents) were submitted to the department on or before November 20, 2000, are subject to the requirements in LAC 33:V.2602 for grandfathered CAMUs. CAMU waste, activities, and design shall not be subject to the standards in LAC 33:V.2603, so long as the waste, activities, and design remain within the general scope of the CAMU as approved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:285 (February 2000), amended LR 28:1580 (June 2002).

James H. Brent, Ph.D.
Assistant Secretary

0207#040

RULE

**Office of the Governor
Board of Architectural Examiners**

**Election of Nominees to Fill Vacancy
(LAC 46:I.Chapter 4)**

Under the authority of R.S. 37:144.C and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners ("Board") has adopted LAC 46:I.Chapter 4 pertaining to the election of the nominees for the architectural members of the board to be appointed by the governor pursuant to R.S. 37:142.B. Act 231 of 2001 provided that these architectural members shall be appointed by the governor from a list of three nominees elected from each of the five districts established therein. This rule sets forth a procedure for the election of these three nominees.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part I. Architects

Chapter 4. Election of Nominees to Fill Vacancy

§401. Vacancy

A. This Chapter concerns the election of the three nominees to be submitted to the governor for the filling of a vacancy on the board of one or more of the five architectural members to be appointed by the governor pursuant to R.S. 37:142.B. This Rule shall be applicable whether the vacancy occurs as a result of withdrawal, disability, death, completion of the term of appointment, or any other reason. This Rule shall not be applicable to the board members selected by the governor pursuant to R.S. 37:142.C or D.

B. If a vacancy occurs, or is about to occur, the executive director shall publish notice thereof in the official journal of the state for a period of not less than 10 calendar days. The published notice need not appear more than three times during the 10-day period. The published notice shall identify the district where the vacancy has occurred and state that any licensed architect domiciled in that district desiring to fill that vacancy shall send a letter by certified mail to the director of the board indicating his or her intent to be a candidate, which letter shall be accompanied by a curriculum vitae and shall certify that, if elected, the architect will serve. The deadline for receipt of the certified letter shall be at least 20 calendar days subsequent to the publication of the last notice appearing in the official journal of the state. Confirmation of receipt shall be the sole responsibility of the candidate.

C. The board shall also provide notice of any vacancy to anyone who has requested same by certified mail within 90

days of the occurrence thereof. However, any failure to provide such notice shall not effect the results any election conducted to fill the vacancy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 28:1581 (July 2002).

§403. Waiver of Election

A. If three or fewer eligible architects from any district seek nomination, no election shall be held in that district, and the names of those three or fewer candidates shall be submitted to the governor without any further board action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 28:1581 (July 2002).

§405. Ballots

A. If an election is necessary, an official ballot and an official return envelope shall be mailed to each licensed architect residing in Louisiana. The ballot shall contain the names of the candidates printed in alphabetical order for each district, the date for the return of the ballots, and any other information or instructions the board believes may be helpful in the election process. Biographical information may be attached to the ballot.

B. If the ballot mailed by board is lost, misplaced or not received, an architect desiring to vote may request from the board a substitute or replacement ballot. This substitute or replacement ballot may be used in the election, provided the requirements of §407.C are satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 28:1581 (July 2002).

§407. Voting

A. All licensed architects residing in Louisiana shall have the right to vote in the election of nominees to fill the vacancy for any district. If nominees are being elected for more than one district, a licensed architect may choose to vote in one or more and less than all district elections, and no ballot shall be voided for that reason. However, any ballot containing more than three votes or fewer than three votes for candidates in any one district will be voided in its entirety. No write-in candidates will be allowed, and any ballot containing a vote for a write-in candidate will be voided in its entirety.

B. Ballots shall be returned in the official return envelopes provided by the board to the board office in Baton Rouge. The voting architect shall sign and provide his or her license number in the upper left-hand corner of the return envelope.

C. The ballot shall not be valid unless:

1. the signature and license number appear on the return envelope; and

2. the return envelope is received by the board office on or before the deadline.

D. Ballots returned in an envelope other than the official return envelope provided by the board shall not be voided for that reason, provided:

1. the signature and license number of the voting architect appear on the return envelope; and

2. the return envelope is received by the board office on or before the deadline.

E. The deadline for returning the ballots will be fixed by the president and will be at least 14 calendar days after the ballots are mailed to all licensed architects. Ballots received after the deadline shall not be counted.

F. Upon receipt, each return envelope shall be stamped by the board office showing the date received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 28:1581 (July 2002).

§409. Tabulation

A. Within 14 calendar days of the deadline for receipt of ballots, tellers appointed by the president, including at least one board member, shall meet at the board office for the purpose of tabulating the ballots. Following a determination that each return envelope contains the required signature and license number, and was timely received, the tellers shall open and count all ballots properly prepared. The executive director will notify the governor and the candidates of the results.

B. Alternatively, when in the discretion of the president the manual tabulating of the ballots by tellers in accordance with the preceding paragraph would be burdensome, or for some other reason should be performed by an outside person, the president may refer the entire tabulating of the ballots, or any part thereof, to an accounting firm, data processing company, or other such qualified person in addition to one board member. The outside person may use such clerical or other assistance, including whatever assistance from the board staff, as he or she deems necessary. The outside person shall:

1. determine that each return envelope contains the required signature and license number, and was timely received;

2. count all ballots properly prepared; and

3. certify the number of votes received by each candidate to the board president and the executive director, who shall notify the governor and the candidates of the results.

C. The three candidates receiving the highest number of votes in each district shall have their name submitted to the governor as nominees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 28:1582 (July 2002).

§411. Tie

A. In the event the three candidates receiving the highest number of votes cannot be determined because of a tie, a run-off election will be held. The only candidates in the run-off election will be those candidates who received the same number of votes so that the outcome of the election cannot be fully determined.

B. If a run-off election is necessary, an official ballot and an official return envelope will be mailed to each licensed architect residing in Louisiana approximately two weeks after it has been determined that such an election is necessary.

C. The official ballot shall contain the information set forth in §405, except only the names of and the information for those candidates in the run-off election shall be included.

D. The rules for voting, for determining the person or persons elected as nominees, and for tabulating votes set forth elsewhere in this rule shall be applicable.

E. In the event the run-off election does not decide the three candidates receiving the highest number of votes, the procedure set forth herein shall be repeated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 28:1582 (July 2002).

§413. Vacancy

A. If a vacancy of person elected as nominee occurs with respect to a person elected as a nominee, that vacancy shall be filled in the following manner. The executive director shall give notice of the vacancy to all of the other candidates in that district and to anyone who has requested notice of any such vacancy in writing by certified mail within 90 days of the election; however, any failure to provide such notice shall not effect any election conducted subsequently held to fill the vacancy. The executive director shall also publish notice of the vacancy in the official journal of the state for a period of not less than 10 calendar days. The published notice need not appear more than three times during the 10-day period. The published notice shall identify the district where the vacancy has occurred and state that any licensed architect domiciled in that district desiring to fill that vacancy shall advise the board in writing before the deadline determined by the president, and may contain other information. If more than one person seeks election as the nominee, the board will call another election to fill that vacancy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 28:1582 (July 2002).

§415. Election Contest

A. The executive director will notify the candidates of the results of the election by U.S. Mail. The 10 calendar days for contesting an election shall commence three work days (excluding Saturdays, Sundays, and legal holidays) after the results of the election are deposited in the mail by the executive director.

B. Any candidate desiring to contest an election shall, within the time period mentioned in the preceding paragraph, file a written petition addressed to the board stating the basis of the complaint. Upon receipt of such petition, the president shall call a special meeting of the board to hear the complaint, which meeting shall be held within 10 calendar days from the date the petition is received and at a time and place to be designated by the president. At the hearing the board shall consider any evidence offered in support of the complaint. The decision of the board shall be announced within 72 hours after the close of the hearing.

C. All ballots shall be preserved until the expiration of the time allowed for the filing and hearing of a contest. After such period has elapsed, if the election is not contested, the executive director shall destroy the ballots. If the election is contested, the executive director shall maintain the ballots

until the contest is concluded, after which the executive director shall destroy the ballots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 28:1582 (July 2002).

Mary "Teeny" Simmons
Executive Director

0207#015

RULE

**Office of the Governor
Division of Administration
Office of Information Technology**

Information Technology
(LAC 4:XI.101, 301, 303, 501 and 503)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and in order to comply with the legislative mandate of Act 772 of the 2001 Regular Session of the Louisiana Legislature, the Office of the Governor, Division of Administration, Office of Information Technology (OIT), has promulgated Rules and Regulations relative to information technology initiatives.

Title 4

ADMINISTRATION

Part XI. Information Technology

Chapter 1. General Provisions

§101. General

A. Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 39:15.1-6 in Act 772 of the 2001 Regular Session, the Chief Information Officer (CIO) and the Office of Information Technology (OIT) was established to manage and direct the following information technology initiatives:

1. overseeing and implementing a state master information technology plan;
2. establishing/directing the implementation of IT standards, architecture, and guidelines for hardware and software systems, contractual arrangements, consolidation of services, and system management;
3. reviewing, coordinating, and standardizing IT planning, procurement, and budgeting;
4. implementing strategic IT planning, review, and operation;
5. measuring and assessing the performance of IT systems, including the creation of benchmarks and the establishment of accountability;
6. overseeing/coordinating the centralization of technology, including consolidation, outsourcing, and sharing statewide government IT resources and services;
7. assuring compatibility and connectivity of Louisiana's information systems;
8. facilitating and fostering innovative emerging technologies that provide cost-effective solutions for government operation;
9. reviewing/overseeing IT projects and systems for compliance with statewide strategies, goals, and standards;

10. ensuring that statewide IT applications are not duplicated by individual state agencies in the executive branch;

11. facilitating/fostering the identification of state data policy and planning needs; and

12. charging respective user agencies for the cost of IT services provided by OIT.

AUTHORITY NOTE: Promulgated in accordance with Act 772 of the 2001 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Information Technology, LR 28:1583 (July 2002).

Chapter 3. State Agencies Responsibilities

§301. General

A. All agencies under the authority of Act 772 must comply with the policies and guidelines promulgated by the Office of Information Technology.

AUTHORITY NOTE: Promulgated in accordance with Act 772 of the 2001 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Information Technology, LR 28:1583 (July 2002).

§303. Information Technology Coordination

A. All departments shall designate one representative to serve as the Information Technology Coordinator, unless otherwise approved by the CIO. The Information Technology Coordinator shall be recognized by the Office of Information Technology as the agency's authorized representative for coordinating with OIT.

AUTHORITY NOTE: Promulgated in accordance with Act 772 of the 2001 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Information Technology, LR 28:1583 (July 2002).

Chapter 5. Policy and Guidelines

§501. General

A. It is the intent of the Office of Information Technology to develop formal IT policies, standards and guidelines relative to information technology activities including but not limited to the following:

1. implementing of IT standards for hardware, software, and consolidation of services;
2. reviewing and coordinating IT planning, procurement, and budgeting;
3. providing oversight for centralization/consolidation of technology initiatives and the sharing of IT resources;
4. assuring compatibility and connectivity of Louisiana's information systems;
5. providing oversight on IT projects and systems for compliance with statewide strategies, goals, and standards.

B. The policies, standards and guidelines of the Office of Information Technology will be promulgated via Information Technology Bulletins.

AUTHORITY NOTE: Promulgated in accordance with Act 772 of the 2001 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Information Technology, LR 28:1583 (July 2002).

§503. Policy Distribution

A. The official method of publishing/distributing OIT policies, standards and guidelines will be via the OIT website at: www.doa.state.la.us/oit.

B. Other electronic delivery systems will be utilized as appropriate to notify agencies of adopted policies and guidelines.

AUTHORITY NOTE: Promulgated in accordance with Act 772 of the 2001 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Information Technology, LR 28:1583 (July 2002).

Chad McGee
Acting Chief Information Officer

0207#037

RULE

**Office of the Governor
Ground Water Management Commission**

Ground Water Management (LAC 33:IX.Chapters 31-35)

Editor's Note: In accordance with OSR uniform formatting procedure, these rules have been moved from Title 70 to Title 33 for topical placement.

Pursuant to the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., as amended, on May 18, 2001, the Ground Water Management Commission (Commission) approved the subject rule for hearing regarding the designation of Critical Ground Water Areas on March 20, 2002 in accordance with R.S. 38:3099. R.S. 38:3099 states that the commission shall develop and promulgate rules and regulations for the determination of critical ground water areas and possible limitation of access to ground water sources and response to emergency situations. Failure to designate and protect critical ground water areas may endanger drinking water, as well as the ability of industry and agriculture to utilize these fresh water aquifers for commercial purposes. R.S. 38:3099 specifically requires that public hearings be held in such matters and the attached rule provide the mechanism to meet that requirement.

**Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality**

Subpart 2. Groundwater Management

Chapter 31. General Provisions

§3101. Applicability

A. These Rules shall be applicable to hearings relative to the commission's jurisdiction to determine critical groundwater areas, potential critical ground water areas and a ground water emergency. The Rules shall not alter or change the right of the commission to call a hearing for the purpose of taking action with respect to any matter within its jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584 (July 2002).

§3103. Definitions

A. The words defined herein shall have the following meanings when used in these Rules. All other words used and not defined shall have their usual meanings unless specifically defined in Title 38 of the Louisiana Revised Statutes.

Beneficial Purpose or Beneficial Use the technologically feasible use of ground water for domestic, municipal, industrial, agricultural, recreational or therapeutic purposes or any other advantageous use.

Commission Ground Water Management Commission authorized by R.S. 38:3099.3.A.

Critical Ground Water Area (CGWA) an area where sustainability of an aquifer is not being maintained under current or projected usage or under normal environmental conditions which are causing a serious adverse impact to an aquifer.

Ground Water water suitable for any beneficial purpose percolating below the earth's surface, including water suitable for domestic use, supply of a public water system or containing fewer than 10,000 mg/l total dissolved solids.

Ground Water Emergency shall mean an unanticipated occurrence as a result of a natural force or a man-made act which causes either the depletion of a ground water source or a lack of access to a ground water source or the likelihood of excessive pumping from a ground water source.

Person any natural person, corporation, association, partnership, receiver, tutor, curator, executor, administrator, fiduciary, or representative of any kind, or any governmental entity.

Potential Critical Ground Water Area a ground water area where drilling of new well(s) or pumpage at current rates could result in creation of a CGWA.

Sustainability the development and use of ground water in a manner that can be maintained for the present and future time without causing unacceptable environmental, economic, social, or health consequences.

User any person making any beneficial use of ground water from a well or wells owned or operated by such person or from a well or wells owned or operated solely for the production of water used by such person.

Well or Water Well any well drilled or constructed for the principal purpose of producing ground water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584 (July 2002).

Chapter 33. Application Procedure

§3301. Who May Apply

A. Any person owning property, a water well or utilizing water from an aquifer within the jurisdiction of the commission shall have the right to file an application with the commission calling for a public hearing relative to said aquifer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584 (July 2002).

§3303. Notice of Intent

A. A Notice of Intent to file an application will be published in the official parish journals. Such notice will include:

1. name, address, and telephone number;
2. a brief description of the subject matter of the proposed application;

3. a brief description of location including parish, section, township, range, and a map which shall be sufficiently clear to readily identify the location of the proposed CGWA;

4. a statement that, if the area is designated a CGWA, ground water use may be restricted;

5. a statement that all comments should be sent to:

Commissioner of Conservation
Post Office Box 94275
Baton Rouge, LA 70804-9275

ATTN: Groundwater Management Commission Staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584 (July 2002).

§3305. Application

A. Application for Hearing. The application shall be filed in duplicate no sooner than 30 days and no later than 60 days after publication of the Notice of Intent. The application must include:

1. the name, address, telephone number, and signature of applicant;

2. a statement identifying the applicant's interest which is or may be affected by the subject matter of the application;

3. identification of the source of ground water (aquifer) to which the application applies;

4. identification of the proposed critical ground water area, including its location (section, township, range and parish) and U.S. Geological Survey topographic map of appropriate scale (1:24,000, 1:62,500, 1:100,000, or LA - DOTD Louisiana parish map outlining the perimeter of the area). Submittal of digital data is recommended. Digital map data in vector and/or raster formats should have supporting metadata;

5. statement of facts and evidence supporting the application, pursuant to §3307, and a statement on how no action would likely impact ground water resources in the area subject to request;

6. the original published page from the official parish journal evidencing publication of Notice of Intent to apply to the Ground Water Management Commission.

B. Application by Commission. The commission may initiate a hearing to consider action with respect to a specific ground water area. The commission shall notify the public pursuant to §3303 and §3501.A prior to issuing an order. The information presented by the commission at the hearing shall include but not be limited to information pursuant to §3305.A and §3307.

C. Ground Water Emergency. Notwithstanding the provisions of Paragraphs A and B hereof, the commission may initiate action in response to an application of an interested party or upon its own motion in response to a ground water emergency. Subsequent to adoption of a proposed emergency order that shall include designation of a critical ground water area and/or adoption of a emergency management plan for an affected aquifer, the commission will promptly schedule a public hearing pursuant to §3501.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1585 (July 2002).

§3307. Criteria for a Critical Ground Water

Designation

A. Application for designation of a critical ground water area or potential critical ground water area must contain a statement of facts and supporting evidence substantiating that at least one of the following criteria applies to the source of ground water (aquifer) within such proposed area:

1. water levels in the source of ground water show declines that will render such source inadequate for current or immediate future demands without some action being taken; and/or

2. concentrations of chlorides, total dissolved solids (TDS) or other impurities that will render the source of ground water unsuitable for domestic use have shown annual increases that will render such source unsuitable for current or immediate future demands without some action being taken; and/or

3. overall withdrawals annually have exceeded the recharge of the source of ground water that will render the source inadequate for current or immediate future demands without some action being taken.

B. Applicant shall also submit recommendations regarding the critical ground water area including but not be limited to the following:

1. the designation of the critical ground water area boundaries; and

2. the recommended management controls of the critical ground water area, that may include but not be limited to:

a. restrictions on the amount of withdrawals by any and/or all users in accordance with R.S. 38:3099.3.D;

b. requiring new permits for the drilling of new water wells including but not limited to:

i. spacing restrictions; and/or

ii. depth restrictions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1585 (July 2002).

§3309. Commission Review

A. Within 30 days of receipt of an application pursuant to §3305.A, the applicant will be notified whether or not the application is complete. If the commission determines an application is incomplete, the applicant shall be notified in writing of the reasons for that determination and the information needed to make such application complete. The commission may reject and return any application determined to be without merit or frivolous.

B. Using all available data presented to the commission, an analysis will be made by the commission to determine if the area under consideration meets the criteria to be designated a critical ground water area or could become a critical ground water area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1585 (July 2002).

§3311. Recordkeeping

A. The commission shall compile and maintain at the Office of Conservation a record of all public documents relating to any application, hearing, or decision filed with or by the commission. The commission shall make records available for public inspection free of charge and provide copies at a reasonable cost during all normal business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1586 (July 2002).

Chapter 35. Hearing

§3501. Notice Of Hearing

A. Hearing Pursuant to §3305.A or §3305.B. Upon determination that an application is complete the commission shall schedule one initial public hearing at a location determined by the commission in the locality of the area affected by the application. Notice of the hearing shall contain the date, time and location of the hearing and the location of materials available for public inspection. Such notice shall be published in the official state journal and official parish journal of each parish affected by the application at least 30 calendar days before the date of such hearing. A copy of the notice shall be sent to the applicant, any person requesting notice, and local, state and federal agencies that the commission determines may have an interest in the decision relating to the application.

B. Hearing Pursuant to §3305.C and §3505.B. The commission will notify the public of any hearing initiated by the commission either as a result of an action, pursuant to §3305.C or §3505.B, a minimum of 15 days prior to the hearing. Hearings initiated by the commission will be held in each parish affected by the commission's action under §3305.C or §3505.B. Notice of the hearing shall contain the date, time and location of the hearing and the location of materials available for public inspection. Such notice shall be published in the official state journal and official parish journal of each parish affected by the commission's petition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1586 (July 2002).

§3503. Rules of Conduct

A. Hearings scheduled pursuant to those rules will be fact-finding in nature and witnesses shall not be subject to cross-examination. The chairman of the commission, or a designee, shall serve as presiding officer, and shall have the discretion to establish reasonable limits upon the time allowed for statements. The applicant shall first present all relative information supporting their proposal followed by testimony and/or evidence from local, state and federal agencies and others. All interested parties shall be permitted to appear and present testimony, either in person or by their representatives. All hearings shall be recorded verbatim. Copies of the transcript shall be available for public inspection at the Office of Conservation. The testimony and all evidence received shall be made part of the administrative record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1586 (July 2002).

§3505. Decision

A Commission Decisions. After hearings held pursuant to §3501.A or §3305.C, the commission shall issue a written decision in the form of an order based on scientifically sound data gathered from the application, the participants in the public hearing, and any other relevant information. The order shall contain a statement of findings, and shall include but shall not be limited to:

1. the designation of the critical ground water area boundaries; and/or
2. the recommended management controls of the critical ground water area, that may include but not be limited to:
 - a. restrictions on the amount of withdrawals by any and/or all users in accordance with R.S. 38:3099.3.D;
 - b. requiring new permits for the drilling of new water wells including but not limited to:
 - i. spacing restrictions; and/or
 - ii. depth restrictions.

B. The commission will make the order and proposed management controls available to the applicant, participants in the original application hearing and any other persons requesting a copy thereof. The commission in accordance with §3501.B will initiate hearings on the order and proposed management controls in each parish affected by said order and management controls.

C. Final Orders. The commission will adopt final orders and management controls after completion of §3501.B. The final orders shall be made a part of the permanent records of the commission in accordance with §3311 and shall be made available to the public upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3099 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1586 (July 2002).

Karen K Gautreaux
Chairperson

0207#030

RULE

**Office of the Governor
Used Motor Vehicle and Parts Commission**

Rent with Option-to-Purchase Program,
Identification Cards, Register of Business Transactions
and Service Contracts
(LAC 46:V.3001, 3003, 3503, 3901, 4101, and 4103)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4.A and 4.B, the Office of the Governor, Used Motor Vehicle and Parts Commission, the Used Motor Vehicle and Parts Commission has adopted rules and regulations governing rent with option-to-purchase programs on used motor vehicles and amends sections of existing rules and regulations regarding identification cards,

buyer's identification cards and business transactions. The Used Motor Vehicle and Parts Commission has repealed sections regarding vehicle service contracts.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 30. Rent With Option-to-Purchase Program

§3001. Definitions

Consummation—the time a renter becomes contractually obligated on a vehicle *rental purchase agreement*.

Processing Fee—those administrative fees that a *rental dealer* may charge to *rental consumer* to initiate a *rental purchase agreement*, however designated.

Rental Consumer—a natural person who rents with an option-to-purchase a used motor vehicle under a vehicle rent with option-to-purchase agreement.

Rental Dealer—a person who regularly provides used motor vehicles under a vehicle rent with option-to-purchase agreement.

Rental Purchase Agreement—a vehicle rent with option-to-purchase agreement for the rent of a used motor vehicle by a *rental dealer* in favor of a *rental consumer*, for personal, family or household purposes for a period of not less than twelve months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:773.B.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:1587 (July 2002).

§3003. Provisions Required in all Rental Purchase Agreements

A. All such contracts shall be made in clear and conspicuous language.

B. All such contracts be in writing, a copy of which shall be delivered to the *rental consumer*.

C. Condition Report. A condition report which sets forth in detail the physical condition and appearance of the vehicle prior to rental shall be completed and signed by both the *rental dealer* and the *rental consumer*.

D. Every *rental purchase agreement* shall contain language substantially equivalent to the following:

1. a provision indicating the description of the vehicle rented, particularly to the year, make, model, vehicle identification number, color and odometer reading;

2. a provision itemizing all costs relative to detail, delivery and/or destination of the vehicle, which shall not exceed the sum of \$150;

3. an itemization of the *processing fee* charged by the *rental dealer*, if any, which shall not exceed the sum of \$150;

4. security deposit. A provision indicating the amount of the security deposit required by the *rental dealer* and the conditions under which the said security deposit shall be refundable or non-refundable; however, no security deposit shall exceed the value of the vehicle as reflected by any used motor vehicle national reference guide;

5. mechanical repairs. A provision that the *rental dealer* cannot add repair costs to the *rental purchase agreement*. Further, that the *rental dealer* shall warrant the powertrain of the motor vehicle for any defects which

existed at the time of sale for a period of 30 days or 1,000 miles, whichever is the lesser;

6. a provision offering to the *rental consumer* the right to secure a warranty, if one is available, for the used motor vehicle and the price of such warranty, and the cost of any deductible under the warranty;

7. a provision setting for the total amount of payments due, the number of total periodic payments and the amount of each such periodic payment;

8. a provision indicating whether the title transfer and licensing fees are included in the payments charged at *consummation* by the *rental dealer* or is to be considered additional charges;

9. a provision indicating whether a late payment is due from the *rental consumer* after a certain date selected for periodic payment, the amount of which payment shall not exceed the sum of \$50 or 10 percent of the monthly payment price, whichever is less;

10. a provision indicating whether a reinstatement fee shall be required in the event that the *rental consumer* fails to make timely rental payments and desires to reinstate the *rental purchase agreement*, which reinstatement fee shall not exceed the sum of \$50 plus any legitimate recovery fees or expenses;

11. a provision indicating whether the *rental consumer* is liable for loss or damage to the rental property and, if so, the maximum amount for which the *rental consumer* may be liable;

12. a provision containing the rights of *rental consumer* to terminate the *rental purchase agreement* and the consequences of such termination, if any;

13. a provision regarding the maintenance and repair of the rental property during the rental term and whether the *rental consumer* is responsible for such repairs absent the purchase of a warranty;

14. a provision indicating whether the *rental consumer* is required to secure automobile liability insurance from a licensed insurance agent in the state of Louisiana, and the minimum limits required by the *rental dealer* for both bodily injury and property damage, which, in any event, shall not be less than the minimum limits required by state law.

E. Every *rental purchase agreement* shall be signed by the *rental consumer* and an authorized representative of the *rental dealer*.

F. A *rental purchase agreement* may not contain a provision:

1. requiring a confession of judgment; and

2. authorizing a *rental dealer* or an agent of the *rental dealer* to commit a breach of the peace in the repossession of rental property or to take repossession of the rental property in any manner other than what is permitted in R.S. 14:220.

G. Every *rental dealer* must maintain a contingent automobile liability policy of insurance with minimum limits of \$100,000 per occurrence, \$300,000 aggregate and \$50,000 in property damage. It shall not be sufficient for any *rental dealer* to share in a policy of insurance which could, under any circumstance, create a limit of less than that set forth herein. Such policy shall be placed, if available, through an insurance company licensed by and admitted in the state of Louisiana.

H. A used motor vehicle dealer shall not rent with an option-to-purchase a used motor vehicle that has a recorded

lien on file. The lien must be removed through the Office of Motor Vehicles prior to placing the used motor vehicle in the rental program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:773.B.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:1587 (July 2002).

Chapter 35. Buyer Identification Card

§3503. Qualifications and Eligibility for Buyer

Identification Card

A. - A.2. ...

B. The buyer's identification card shall include the name, address, driver's license number, any one of the aforementioned dealers= license numbers, physical description, and signature of the applicant and the name and address of the employer of the applicant. The buyer's identification number to be prefixed with BI, followed by a four-digit number, then the current year (BI-0000-89). Cards obtained for the buyers will be \$25 each for Louisiana resident and \$200 each for out-of-state resident. Out-of-state buyers must provide proof that they are a licensed used motor vehicle dealer, auto recycler, auto dismantler or employee thereof. A smaller identification card will be issued to all buyers that will consist of individual's name, driver's license number, social security number, dealership name, dealer number, salesman number, photograph and the individual's signature. This card must be carried with the individual and produced on demand while conducting the business for which this license has been issued. Applicants may provide a copy of the license. However, if the commission has reasonable cause to suspect that the copy is a forgery or inaccurate, then the commission may require the applicant to produce a certified copy of the license.

C. The buyer's identification card shall be carried upon the cardholder's person and same displayed to owner, manager, or person in charge of any salvage pool or salvage disposal sale, representative of the commission or any identifiable law enforcement agent of the state, city or municipality. The buyer's identification card is not transferable or assignable. Physical description and signature of cardholder must be compared with cardholder's driver's license for valid identification by owner, manager, or person in charge of any salvage pool or salvage disposal sale. It shall be the duty of the owner, manager or person in charge of any salvage pool or salvage disposal sale to refuse to sell to any person any wrecked or repairable motor vehicle if such person does not display a valid buyer's identification card.

1. Each buyer's identification cardholder may be accompanied to any salvage pool or salvage disposal sale by a mechanic or other technical expert of his choice, prior to the actual sale. At the time of the actual bidding, only valid bid cardholders shall be present.

2. A technical expert is one who is knowledgeable in a specialized field, that knowledge being obtained from either education or personal experience, regarding a subject matter about which persons having no particular training are incapable of forming an accurate opinion or making a correct deduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:762.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:259 (April 1989), LR 15:1058 (December 1989), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:1588 (July 2002).

Chapter 39. Business Transactions

§3901. Register of Business Transactions

A. Every used motor vehicle dealer and automotive dismantler and parts recycler shall keep a register and/or records of all purchases and sales of motor vehicles for three years from the date of purchase or sale, showing the make, model, year, style, vehicle identification number, and name and address of the purchaser or seller of the motor vehicle. Such records shall include all titles, bills of sale, temporary tag books, monthly sales reports, consignment agreements, and inventory and parts records. A salvage pool or salvage disposal sale must maintain a register of all purchases and sales of motor vehicles for three years from the date of purchase or sale, showing the make, model, year, style, vehicle identification number, and name and address of the purchaser or seller of the motor vehicle. Such registers shall include all titles. The salvage pool or salvage disposal sale may maintain its records electronically.

B. Such registers and/or records shall be made available for inspection by the Used Motor Vehicle and Parts Commission representatives or identified law enforcement officers of the state, parish and municipality where the business of the used motor vehicle dealer, automotive dismantler and parts recyclers, salvage pool or salvage disposal sale is located, during reasonable business hours or business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:757.A-B.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:1588 (July 2002).

Chapter 41. Condition of Sale of a Motor Vehicle

§4101. Vehicle Service Contracts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.F.(3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:466 (June 1989), repealed by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:1588 (July 2002).

§4103. Sale and Marketing of Motor Vehicle Performance Warranty Contracts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:466 (June 1989), repealed by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:1588 (July 2002).

John M. Torrance
Executive Director

0207#013

RULE

Department of Health and Hospitals Board of Medical Examiners

Integrative and Complementary Medicine (LAC 46:XLV.Chapter 71)

In accordance with R.S. 49:953, the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and particularly R.S. 37:1270(B), has adopted rules governing the utilization of integrative or complementary medicine, LAC 46:XLV, Subpart 3, Chapter 71, §§7101-7111. The rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 71. Integrative And Complementary Medicine

Subchapter A. General Provisions

§7101. Scope of Chapter

A. The rules of this Chapter govern physician use of integrative or complementary medicine in the treatment of patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 28:1589 (July 2002).

§7103. Definitions

A. As used in this Chapter, unless the content clearly states otherwise, the following terms and phrases shall have the meanings specified.

Board the Louisiana State Board of Medical Examiners.

Controlled Substance any substance defined, enumerated or included in federal or state regulations or statute 21 CFR 1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations or statute.

Conventional or Conventional Medicine diagnostic methods or therapies offered or employed by a physician, or under his on-site supervision and direction, in the diagnosis, prevention or treatment of any illness, disease or condition which are generally accepted and recognized as falling within the standard of care in the course of medical practice based upon medical training, experience and peer reviewed scientific literature.

Integrative or Complementary Medicine diagnostic methods or therapies offered or employed by a physician, or under his on-site supervision and direction, in addition or as an alternative to conventional medicine methods or therapies, in the diagnosis, prevention or treatment of any illness, disease or condition which do not, in the judgment of the physician, pose a safety risk for a patient that is greater than conventional medicine methods or therapies and provided there exists a reasonable probability for diagnostic or therapeutic effectiveness in its intended use. Integrative or complementary medicine does not include the use of

controlled substances in the treatment of patients suffering from chemical dependency.

On-Site Supervision and Direction medical functions or procedures performed under physician supervision and direction by an appropriately trained and qualified non-physician in the course and scope of his or her employment or contractual relationship with a physician, when such physician is physically present on the premises at all times that such non-physician is on duty and retains full responsibility to patients and the board for the manner and results of all services rendered. On-site supervision and direction shall not be construed under any circumstances to permit a non-physician to act independently of a physician or exercise independent medical judgment in rendering a diagnosis, prescribing medication or in implementing modalities of diagnosis or treatment.

Physician a person possessing a current license issued by the board to practice medicine in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 28:1589 (July 2002).

§7105. General Conditions/Prohibitions

A. The use of integrative or complementary medicine for the diagnosis or treatment of any illness, disease or condition, constitutes legitimate medical therapy when provided in the course of professional medical practice, complies with the standard of care applicable to conventional medicine practitioners, and when fully documented in the patient's medical record. Any physician utilizing integrative or complementary medicine shall do so in strict compliance with the rules enumerated in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 28:1589 (July 2002).

§7107. Use of Integrative or Complementary Medicine; Limitations

A. Requisite Prior Conditions. Any physician offering or utilizing integrative or complementary medicine shall comply with the following rules.

1. Evaluation of the Patient. Prior to offering integrative or complementary medicine a physician shall perform an evaluation of the patient that shall include but not be limited to any conventional methods of diagnosis which, in the judgment of the physician, are deemed necessary or appropriate to the condition of the patient. Such an evaluation shall include:

- a. a relevant medical history;
- b. an appropriate physical examination; and
- c. a review of the results of any relevant diagnostic studies or therapies undertaken or previously attempted.

2. Medical Diagnosis. A medical diagnosis shall be established by the physician and documented in the patient's medical record, which indicates the nature of the patient's illness, disease, condition or other reason for which treatment is being sought if such is determinable.

3. Treatment Plan. A treatment plan by which progress or success can be evaluated with stated objectives shall be formulated by the physician which is tailored to the

individual needs of the patient and documented in the patient's medical record. Such plan shall include documentation of:

- a. whether conventional or complementary methods of diagnosis or treatment for the current complaint or condition have been considered, are being undertaken or have been attempted without adequate or reasonable success or a statement that the patient has refused such methods;
- b. consideration for the need for conventional testing, consultation, referral or treatment when indicated;
- c. the intended role of integrative or complementary medicine within the overall plan; and
- d. whether integrative or complementary medicine offered or utilized could interfere with any ongoing conventional therapy.

4. Informed Consent. A physician shall inform a patient or his guardian of each of the following, which discussions shall be noted in some form in the patient's record:

- a. his education, experience and credentials regarding any integrative or complementary medicine which is recommended; and
- b. the risks and benefits of both conventional medicine and integrative or complementary medicine incorporated within each treatment plan.

B. A physician shall inform the patient that his recommendation for the use of a particular drug, substance or medical device for diagnosis or treatment of the patient's illness, disease or condition is investigational, experimental, new, unconventional or unproven.

C. Initiation of Integrative or Complementary Medicine. Upon completion and satisfaction of the conditions prescribed in §7107.A.-B, and upon a physician's judgment that integrative or complementary medicine is warranted for purposes of diagnosis or treatment, a physician shall adhere to the following rules.

1. Assessment of Treatment Efficacy and Monitoring. Patients shall be seen by the physician at intervals appropriate to the danger or safety risk of the diagnostic methods or therapy provided, to assess the efficacy thereof, assure that all treatment recommended or prescribed remains indicated and evaluate the patient's progress toward treatment objectives and any adverse effects. During each visit attention should be given to the need for additional methods of diagnosis, consultation, referral or treatment. Lack of progress from integrative or complementary medicine therapy, or a worsening of symptoms, signs or prognosis, shall indicate the need to revise the treatment plan.

2. Consultation. Physicians shall refer a patient as necessary for additional evaluation or treatment by conventional or integrative or complementary methods, particularly in those patients who are at risk from a potentially life-threatening illness, disease or condition.

3. Medication/Medical Devices Employed. A physician shall document in the patient's medical record the medical rationale for the use of any medication or substance, including a controlled substance, and any medical device employed in the diagnosis or treatment of a patient's illness, disease or condition. The use of controlled substances for the treatment of obesity and chronic or intractable pain shall be

in conformity with §6901 et seq. and §6915 et seq., respectively, of the board's rules.

4. Treatment Records. A physician shall document and maintain in the patient's medical record, accurate and complete records of history, physical and other examinations and diagnostic evaluations, consultations, laboratory and diagnostic reports, treatment plans and objectives, medications, including controlled substances, informed consents, periodic assessments and the results of all conventional and integrative or complementary medicine therapies utilized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 28:1589 (July 2002).

§7109. Effect of Violation

A. Any violation or failure of compliance with the provisions of this Chapter, shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30) respectively, as well as violation of any other applicable provision of R.S. 37:1285(A), providing cause for the board to suspend, revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by a physician to practice medicine in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with RS. 37:1270(A)(1), R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 28:1590 (July 2002).

Subchapter B. Integrative or Complementary Medicine Advisory Committee

§7111. Organization, Authority and Responsibilities

A. Constitution. An Integrative and Complementary Medicine Advisory Committee (the "advisory committee") to the board is hereby constituted to be composed, appointed and to have such functions as hereinafter provided.

B. Composition and Qualifications. The advisory committee shall be comprised of up to five physicians each of whom shall be in good standing with the board, have practiced and resided within the state of Louisiana for not less than one year, possess experience in and have specialized in integrative or complementary medicine for not less than three years.

C. Appointment; Term of Service. Of the board's initial appointments, two members of the advisory committee will be appointed to serve terms expiring on the last day of the year of appointment with the remaining members to serve terms expiring on the last day of the year succeeding the year of appointment. Thereafter, each member of the advisory committee shall serve a term of two years or until his or her successor is appointed. Advisory committee members shall be eligible for reappointment. All members of the advisory committee shall serve and be subject to removal at any time at the pleasure of the board. Members appointed to the advisory committee to fill a vacancy occurring other than by expiration of the designated term shall serve for the unexpired term. Other than the initial appointments provided for herein, board appointments to the advisory committee shall be effective when made with respect to appointments

for unexpired terms and otherwise shall be effective as of the first day of the year following the date of appointment.

D. Functions and Responsibilities of the Committee. The advisory committee is responsible and authorized by the board to:

1. provide advice and recommendations to the board respecting the modification, amendment and supplementation of rules and regulations, standards of care and policies and procedures respecting integrative or complementary medicine;
2. advise, assist and provide the board with such information and expertise as it may request and upon which it may rely, with respect to investigative and/or disciplinary proceedings affecting physicians utilizing integrative or complementary medicine;
3. serve as a liaison between the board and physicians practicing integrative or complementary medicine;
4. perform such other functions and provide such additional advice and recommendations as may be requested by the board; and
5. receive reimbursement for attendance at board meetings and for other expenses when specifically authorized by the board.

E. Confidentiality. In discharging the functions authorized under §7111, the advisory committee and the individual members thereof, when acting within the scope of such authority, shall be deemed agents of the board. All information obtained by the advisory committee members pursuant to §7111.D of this Chapter or otherwise shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone, other than the board, its employees or agents, any information or documents obtained when acting as agents of the board without first obtaining written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 28:1590 (July 2002).

John B. Bobear, M.D.
Executive Director

0207#009

RULE

**Department of Health and Hospitals
Office of Public Health**

Onsite Wastewater ProgramC Lot Size Clarification

In accordance with provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has amended Chapter XIII Section 13:011-2(7) of the Louisiana Sanitary Code, pursuant to R.S. 40:4, as amended by Acts 1978, No. 786; Acts 1982, No. 619; Acts 1986, No. 885; Acts 1988, No. 942. The amendment to this portion of the Louisiana Sanitary Code is necessary in order to clarify the intent of lot size restrictions.

The revision to Chapter XIII is as follows.

**Louisiana State Sanitary Code
Chapter XIII Sewage Disposal**

13:011-2 Community Sewerage System Required

13:011-2. 1-6.c. ...

7. Where lots of "record" (i.e., lots created by formal subdivision prior to July 28, 1967) are combined (in accord with the definition of a subdivision) to create a new, larger, single lot, and no re-subdivision of the property is involved. On July 20, 2002 and thereafter, in no case shall the newly created lots have less than 50 feet of frontage or be less than 5000 square feet in area.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of Public Health, LR 10:802 (October 1984); amended LR 11:1086 (November 1985); LR 19:49 (January 1993); LR 28:1591 (July 2002).

David W. Hood
Secretary

0207#046

RULE

**Department of Health and Hospitals
Office of Public Health**

Sanitary CodeC Commercial Seafood Inspection Program

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, has amended Chapter IX Chapter 9:051-1, 9:051-1-A, 9:051-1-F, 9:051-1-F-2, defining Post-Harvest Treatment Process (9:001), and created 9:052-3-F which adopts the Post-Harvest Processing requirements of the National Shellfish Sanitation Program (NSSP) to Chapter IX of the Louisiana State Sanitary Code. These changes are needed in order for this state to comply with the latest recommendations of the National Shellfish Sanitation Program as required by R.S. 40:5.3.

The revisions to Chapter IX are as follows.

Louisiana State Sanitary Code

Chapter IX. Commercial Seafood Inspection Program

9:001 Definitions

Unless otherwise specifically provided herein, the following words and terms used in this Chapter of the Sanitary Code, and all other Chapters which are adopted or may be adopted, are defined for the purposes thereof as follows:

* * *?

Post-Harvest ProcessingCa treatment process approved by the Louisiana Department of Health and Hospitals Office of Public Health by which oysters are treated to reduce levels of *Vibrio vulnificus* and/or *Vibrio parahaemolyticus* and/or other specified pathogens to non-detectable levels.

* * *

9:051-1

The initial tagging of the shell-stock shall be performed by the harvester before the shell-stock are removed from the harvester's boat. In the event that shell-stock are harvested

from more than one growing area on a given day, the shell-stock shall be sacked and tagged before leaving from the growing area from which the shell-stock was harvested. The harvester's tags shall contain legible information as follows:

9:051-1-A

A place shall be provided where the dealers name, address, certification number assigned by the Office of Public Health, Seafood Sanitation Program and the original shell-stock shipper's number if different.

9:051-1-B

The harvester's identification number assigned by the Department of Wildlife and Fisheries;

9:051-1-C

The date of harvesting;

9:051-1-D

The most precise identification of the harvest site or aquaculture location as practicable;

9:051-1-E

Type and quantity of shellfish; and

9:051-1-F

The following additional statements or their equivalent as approved by the state authority shall appear on each tag in bold capitalized letters:

9:051-1-F-1

THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS.

9:051-1-F-2 Delete the following paragraph and re-number 9:051-F-3 to 9:051-F-2 and retain same language.

THIS PRODUCT SHOULD NOT BE CONSUMED RAW AFTER 14 DAYS FROM THE DATE OF HARVEST; BEYOND THIS 14-DAY PERIOD, THIS PRODUCT SHOULD BE THOROUGHLY COOKED.

9:051-F-2

AS IS THE CASE WITH CONSUMING OTHER RAW ANIMAL PROTEIN PRODUCTS, THERE IS A RISK ASSOCIATED WITH CONSUMING RAW OYSTERS, CLAIMS AND MUSSELS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH, OR BLOOD OR HAVE IMMUNE DISORDERS, DO NOT EAT THESE PRODUCTS RAW. RETAILERS PLEASE ADVISE CUSTOMERS. (Repromulgated 02/20/91 and 05/20/93 and 08/20/95)

9:052-3-F-Post-Harvest Processing

(A) If a dealer elects to use a process to reduce the level(s) of one target pathogen or some target pathogens, or all pathogens of public health concern in shellfish, the dealer shall:

(1) Have a Hazard Analysis Critical Control Point (HACCP) plan approved by the Authority for the process that ensures that the target pathogen(s) are at safe levels for the at risk population in product that has been subjected to the process.

(a) For processes that target *Vibrio vulnificus*, the level of *Vibrio vulnificus* in product that has been subjected to the process shall be non-detectable (<3 MPN/gram), to be determined by use of the *Vibrio vulnificus* FDA approved EIA procedure of Tamplin, et al, as described in Chapter 9 of the FDA Bacteriological Analytical Manual, 7th Edition, 1992.

(b) For processes that target *Vibrio parahaemolyticus*, the level of *Vibrio parahaemolyticus* in product that has been subjected to the process shall be non-detectable (<1 CFU/0.1 gram).

(c) For processes that target other pathogens, the level of those pathogens in product that has been subjected to the process shall be below the appropriate FDA action level, or, in the absence of such a level, below the appropriate level as determined by the ISSC.

(d) The ability of the process to reliably achieve the appropriate reduction in the target pathogen(s) shall be validated by a study approved by the Authority, with the concurrence of FDA.

(e) The HACCP plan shall include:

(i) Process controls to ensure that the end point criteria are met for every lot; and,

(ii) A sampling program to periodically verify that the end point criteria are met.

(2) Package and label all shellfish in accordance with all requirements of this Ordinance. This includes labeling all shellfish which have been subjected to the process but which are not frozen in accordance with applicable shellfish tagging and labeling requirements in Chapter X.05 and X.06 of the National Shellfish Sanitation Program Model Ordinance.

(3) Keep records in accordance with Chapter X.07 of the National Shellfish Sanitation Program Model Ordinance.

(B) A dealer who meets the requirements of this section may label product that has been subjected to the reduction process as:

(1) "Processed for added safety," if the process reduces the levels of all pathogens of public health concern to safe levels for the at risk population;

(2) "Processed to reduce [name of target pathogen(s)] to non-detectable levels," if the process reduces one or more, but not all, pathogens of public health concern to safe levels for the at risk population, and if that level is non-detectable; or

(3) "Processed to reduce [name of target pathogen(s)] to non-detectable levels for added safety," if the process reduces one or more, but not all, pathogens of public health concern to safe levels for the at risk population, and if that level is non-detectable; or

(4) A term that describes the type of process applied (e.g. "pasteurized," "individually quick frozen," "pressure treated") may be substituted for the word "processed" in the options contained in (B)(1)-(3).

(C) For the purposes of refrigeration, if the end product is dead, the product shall be treated as shucked product. If the end product is live, the product shall be treated as shellstock.

(D) A Harvester-Dealer Oyster Tag, blue in color, shall be used for shellstock that has undergone a Post-Harvest Treatment Process.

(E) Certification number of the Post-Harvest treatment facility is required on all Post-Harvest treated tags.

David W. Hood
Secretary

0207#045

RULE

**Department of Health and Hospitals
Office of the Secretary**

Capital Area Human Services District
(LAC 48:I.Chapter 27)

Under the authority of R.S. 46:2661 et seq. as enacted by Act 54 of the first Extraordinary Session of 1999, the Department of Health and Hospitals has adopted the following rule.

**Title 48
PUBLIC HEALTHC GENERAL
Part I. General Administration
Subpart 1. General**

Chapter 27. Capital Area Human Services District

§2701. Introduction

A. This agreement is entered into by and between Department of Health and Hospitals, hereinafter referred to as DHH, and Capital Area Human Services District, hereinafter referred to as CAHSD, in compliance with R.S. 46:2661 through 46:2666 as well as any subsequent legislation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 28:1593 (July 2002).

§2703. Purpose and General Agreement

A. The Department of Health and Hospitals is authorized by law to provide for the direction, operation, development and management of programs of community-based mental health, mental retardation/developmental disabilities, addictive disorders, public health and related activities for eligible consumers in Louisiana.

B. R.S. 46:2661-2666 et seq. authorizes CAHSD to provide services of community-based mental health, developmental disabilities, addictive disorders, public health and related activities for eligible consumers in the CAHSD, which includes East Baton Rouge, West Baton Rouge, Ascension, Iberville, and East and West Feliciana, Pointe Coupee parishes; and to assure that services meet all relevant federal and state regulations; and to provide the functions necessary for the administration of such services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 28:1593 (July 2002).

§2705. Designation of Liaisons

A. The primary liaison persons under this agreement are:

- 1. for DHH Deputy Secretary;
- 2. for CAHSD Chairperson.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 28:1593 (July 2002).

§2709. Services to be Delivered

A. In order to provide a broad spectrum of coordinated public services to consumers of the Office of Mental Health hereinafter referred to as OMH, the Office for Citizens with Developmental Disabilities hereinafter referred to as OCDD,

the Office for Addictive Disorders hereinafter referred to as OAD, the Office of Public Health hereinafter referred to as OPH and for the District Administration, the CAHSD will assume programmatic, administrative and fiscal responsibilities for including, but not limited to, the following:

- 1. OCDD community support;
- 2. mental health services consistent with the State Mental Health Plan, as required under the annual Mental Health Block Grant Plan;
- 3. outpatient treatment (non-intensive)-OAD;
- 4. community-based services-OAD;
- 5. intensive outpatient treatment/day treatment-OAD;
- 6. non-medical/social detoxification-OAD;
- 7. primary prevention-OAD;
- 8. adult inpatient treatment services-OAD;
- 9. transition to recovery homes (when funds and placements are available);
- 10. residential board and care (when funds and placements are available)-OAD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 28:1593 (July 2002).

§2711. Responsibilities of Each Party

A. CAHSD accepts the following responsibilities:

- 1. to perform the functions which provide community-based services and continuity of care for the diagnosis, prevention, detection, treatment, rehabilitation and follow-up care of mental and emotional illness;
- 2. to be responsible for community-based programs and functions relating to the care, diagnosis, eligibility determination, training, treatment, and case management of developmentally disabled and autistic persons as defined by the MRDD law, and to follow the rule governing admissions to OCDD Developmental Centers;
- 3. to be responsible for the delivery and supervision of transition services and case management and provide supports to person waiting for waiver services when an individual transitions to the community;
- 4. to provide for the gradual assumption of community-based public health services which will be determined to be feasible through consultation with the Office of Public Health;
- 5. to provide services related to the care, diagnosis, training, treatment, and education of, and primary prevention of addiction. The criteria for admission and treatment must be parallel to OAD state operated programs;
- 6. to maintain services in community-based mental health, developmental disabilities, and substance abuse at least at the same level as the state maintains similar programs;
- 7. to ensure that the quality of services delivered is equal to or higher than the quality of services previously delivered by the state;
- 8. to perform human resources functions necessary for the operation of the CAHSD;
- 9. to be responsible for the provision of any function/service, reporting or monitoring, mandated by the Block Grant Plan of each respective program office;
- 10. to provide systems management and services data/reports in a format, and content, and frequency content

as that required of all regions by each DHH program office. Specific content of required information sets will be negotiated and issued annually through program office directives;

11. to utilize ARAMIS, MIS, Mental Health's SPOE and any other required DHH/program office systems to meet state and federal reporting requirements. The CAHSD will use the OCDD individual tracking system and/or other designated MIS system OCDD will allow OCDD to electronically upload and download information at prescribed intervals. No information will be uploaded by OCDD without prior notification of CAHSD;

12. to make available human resource staffing data for on-site review;

13. to maintain and support Single Point of Entry (SPOE) state standard;

14. to provide for successful delivery of services to persons discharged from state facilities into the CAHSD service area by collaborative discharge planning;

15. to provide in-kind or hard match resources as required for acceptance of federal grant or entitlement funds utilized for services in the CAHSD as appropriately and collaboratively applied for;

16. to make available a list of all social and professional services available to children and adults through contractual agreement with local providers. List shall include names of contractor, dollar figure and brief description of services;

17. to work with OAD to assure that all requirements and set asides of the Substance Abuse Block Grant are adhered to in the delivery of services;

18. to develop and utilize a 5 year strategic plan as required by Act 1465;

19. to monitor the quality of supports delivered to developmentally disabled individuals in state funded supported living arrangements;

20. to report to OMH on a monthly basis data consistent with that reported in DHH operated regions in order to assure statewide data integrity and comparability across all 64 parishes. The format for reporting this information must comply with OMH data transmission requirements as specified by the assistant secretary for OMH;

21. to further all other CAHSD sites currently receiving materials from OPH shall continue to receive such provided current level funding is available from state and federal resources. Availability of materials shall also be based on the incidence rate of HIV in Region II and throughout the state;

22. to comply with OAD movement toward research-proven best practices and adhere to the established standard of care.

B. DHH retains/accepts the following responsibilities:

1. operation and management of any inpatient facility under jurisdiction of the DHH except that the CAHSD shall have authority and responsibility for determination of eligibility for receipt of such inpatient services (mental health's single point of entry function) which were determined at the regional level prior to the initiation of this Agreement;

2. operation, management and performance of functions and services for environmental health;

3. operation, management and performance of functions related to the Louisiana Vital Records Registry and the collection of vital statistics;

4. operation, management and performance of functions and services related to laboratory analysis in the area of personal and environmental health;

5. operation, management and performance of functions and services related to education provided by or authorized by any state or local educational agency;

6. monitoring this service agreement, assuring corrective action through coordination with CAHSD and reporting failures to comply to the Governor's office;

7. operation, management and performance of functions for pre-admission screening and resident review process for Nursing Home Reform;

8. sharing with CAHSD information regarding but not limited to program data, statistical data, and planning documents that pertain to the CAHSD. Statewide information provided on a regional basis to providers, consumers, and advocates, shall either include accurate data for CAHSD, as confirmed by CAHSD or shall include a statement that information for Region 2 (CAHSD) is available on request. This is necessary to make community stakeholders aware that CAHSD is participating in the submission of the same data reports as are required of the other regions;

9. communicating any planned amendments to current law establishing CAHSD, or new legislation that is primarily directed to impacting CAHSD funding or administration or programs, prior to submission to the Governor's office or to a legislative author;

10. reporting of statewide performance or comparisons, which are circulated outside of the DHH program offices, which include data submitted directly by CAHSD, or which are generated from data transmission program in which CAHSD participants will be provided to CAHSD;

11. providing fair and equal access to all appropriately referred citizens residing in the parishes served by CAHSD;

12. inviting the CAHSD CSRM to OCDD meetings that include the CSRM's of the 8 regions under OCDD administration, when appropriate;

13. meeting with CAHSD to discuss and plan for any necessary upgrades in hardware, software or other devices necessary for the electronic submission of data which is required of CAHSD;

14. CAHSD's executive director shall be included in discussions that specifically relate to changes in CAHSD program or financing, prior to final decision-making;

15. in general, planning, managing and delivering services funded under this agreement as required in order to be consistent with the priorities, policies and strategic plans of DHH, its program offices, and related local initiatives. DHH shall include the CAHSD as appropriate in the development of these plans and priorities;

16. determining if community-based mental health, developmental disabilities, addictive disorders, and public health services are delivered at least at the same level by CAHSD as the state provides for similar programs in other areas, performance indicators shall be established. Such indicators will measure extensiveness of services, accessibility of services, availability of services and, most important, quality of services. The CAHSD will not be

required to meet performance indicators which are not mandated for state-operated programs in these service areas.

C. Joint Responsibilities

1. CAHSD's progress toward achieving outcomes which meet or exceed those realized by DHH-operated programs in the affected geographic region shall be measured by comparing the CAHSD data on results to baseline statistics reported by Regional DHH programs for the year prior to July 1, 1997. Specific outcome measurements/performance indicators to be compared will be jointly agreed upon by CAHSD and DHH.

2. The CAHSD shall work closely with OCDD in transitioning individuals from all developmental centers to the district and will be responsible for the oversight of the service providers to ensure that their recipient receives appropriate services and outcomes as designated in the Comprehensive Plan of Care.

3. CAHSD will work with the Office for Addictive Disorders to assure the key performance indicators sent to the DOA are the same for CAHSD and Office for Addictive Disorders.

4. CAHSD will work with the Office for Addictive Disorders to assure there is a clear audit trail for linking alcohol and drug abuse funding and staffing to alcohol and drug abuse services.

5. CAHSD will collaborate with Region II OPH managers to assist them to perform community-based functions which provide services and continuity of care for education, prevention, detection, treatment, rehabilitation and follow up care related to personal health.

6. The CAHSD shall notify the DHH Bureau of Legal Services and relative program office in a timely manner to assure proper representation in all judicial commitments and court events involving placement in DHH programs. The CAHSD shall also provide program staff as representatives to assist DHH in all judicial commitments and court events involving placement in DHH programs. DHH will provide legal support and representation in judicial commitments to the department.

7. Budget request for new and expanded programs or request for additional funding for existing programs will be discussed with the appropriate personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 28:1593 (July 2002).

§2713. Reallocation of Resources/Staff and Financial Agreements

A. For fiscal year 2001/02, DHH agrees to transfer financial resources in accordance with the memorandum of understanding to the direction and management of the CAHSD. The financial resources will be adjusted based upon the final appropriation for the CAHSD.

B. The CAHSD will submit to DHH an annual budget request for funding of the cost for providing the services and programs for which the CAHSD is responsible. The format for such request shall be consistent with that required by the Division of Administration and DHH. The request shall conform with the time frame established by DHH. CAHSD executive director will submit new and expanded program requests to the Office of the Secretary prior to submission to DOA.

C. The CAHSD shall operate within its budget allocation and report budget expenditures to the DHH.

D. Revisions of the budget may be made upon written consent between the CAHSD and DHH and, as appropriate, through the Legislative Budget Committee's BA-7 process. In the event any additional funding is appropriated and received by DHH that affects any budget categories for the direction, operation, and management of the programs of mental health, mental retardation/developmental disabilities, addictive disorders services, and public health, and related activities for any other such DHH entities or regions, the CAHSD will receive additional funds on the same basis as other program offices. In the event of a budget reduction, CAHSD will receive a proportionate reduction in its budget.

E. CAHSD shall bill DHH agencies for services they provide in a timely manner.

F. CAHSD shall not bill any DHH agency more than is shown in Attachment 1.

G. The CAHSD shall assume all financial assets and/or liabilities associated with the programs transferred.

H. CAHSD shall be responsible for repayment of any funds received which are determined ineligible and subsequently disallowed.

I. DHH shall continue to provide to CAHSD certain support services from the Office of the Secretary and from the Office of Management and Finance which are available to the regional program offices of OCDD, OMH, OAD, and OPH. The services CAHSD will continue to receive, at the level provided to other regions are:

1. communications and inquiry;
2. internal audit, fiscal management;
3. information services;
4. facility management;
5. lease management; and
6. research and development.

J. CAHSD will participate in the planning and ongoing updates to the development of a resource allocation formula for OAD funding and comply with cost benefit analyses and outcome.

K. CAHSD will comply with the resource allocation formula and adjustments in the funding for CAHSD may be made according to this formula.

L. Should the implementation of the Area structure change the means of financing in a way that would negatively impact total funds received by the CAHSD for MH services, OMH would structurally guarantee the ability to bill for/collect funds for the service provided, or fund the district in the amount the total CAHSD/OMH portion of its budget would not be decreased from what would be allocated or collected by the other regions.

M. Funding for all medications needed by OMH forensic clients released from the hospital into CAHSD shall be provided to CAHSD as described in the MOU between OMH and CAHSD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 28:1595 (July 2002).

§2715. Joint Training and Meetings

A. CAHSD, through its staff, will participate in DHH and other programmatic training, meetings and other activities as agreed upon by CAHSD and DHH. In a

reciprocal manner, CAHSD will provide meetings, training sessions, and other activities that will be available for participation by DHH staff as mutually agreed upon by the CAHSD and the DHH. All program office meetings (trainings, information dissemination, policy development, etc.) discussing/presenting information with statewide implications shall include CAHSD staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 28:1595 (July 2002).

§2717. Special Provisions

A. The CAHSD agrees to abide by all applicable federal, state, and parish laws regarding nondiscrimination in service delivery and/or employment of individuals because of race, color, religion, sex, age, national origin, handicap, political beliefs, disabled veteran, veteran status, or any other non-merit factor.

B. The CAHSD shall maintain a property control system of all movable property in the possession of the CAHSD that was formally under the control of DHH, and of all additional property acquired.

C. For purposes of purchasing, travel reimbursement, and securing of social service/professional contracts, the CAHSD shall utilize established written bid/RFP policies and procedures. Such policies and procedures shall be developed in adherence to applicable statutory and administrative requirements. The CAHSD shall provide informational copies of such policies and procedures to DHH as requested.

D. The CAHSD shall abide by all court rulings and orders that affect DHH and impact entities under the CAHSD's control, and shall make reports to DHH's Bureau of Protective Services of all applicable cases of alleged abuse, neglect, exploitation, or extortion of individuals in need of protection in a format prescribed by DHH.

E. If OAD is successful in establishing an Inpatient Gambling Program, this will not be managed by CAHSD since this is a statewide program.

F. In the event of a Departmental budget reduction in state general funds, or federal funds equivalent, CAHSD shall share in that reduction consistent with other DHH agencies. If reductions occur through executive order, DOA, or legislative action in the appropriation schedule 09, and CAHSD is included in these reductions, then these same reductions shall not be reassessed to CAHSD by DHH agencies.

G. CAHSD shall have membership on the Region II Planning Group and the Statewide Planning Group for the HIV/AIDS Prevention Program. CAHSD shall be a voting member of the Region II Planning Group (RPG). CAHSD shall be a non-voting member of the Statewide Planning Group (SPG) unless the CAHSD member is also elected by the Region II RPG as its official delegate to the SPG. In such case, the CAHSD representative shall vote as the representative of the Region II RPG.

H. CAHSD can obtain a copy of all Region II contracts negotiated by OPH for the delivery of HIV/AIDS Prevention Services by CBO's in the seven parish area served by CAHSD.

I. CAHSD can obtain a copy of all requests for funding, solicitation of offers, notices of funding availability and

other such comparable documents sent out by OPH relative to community-based HIV Prevention and Treatment Services for Region II as well as any such notices received by OPH and not chosen for application by them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 28:1596 (July 2002).

§2719. Renewal/Termination

A. This agreement will cover the period of time from July 1, 2001 to June 30, 2002.

B. This agreement will be revised on an annual basis, as required by law, and will be promulgated through the Administrative Procedure Act. The annual agreement shall be published in the state register each year in order for significant changes to be considered in the budget process for the ensuing fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 28:1596 (July 2002).

David W. Hood
Secretary

0207#011

RULE

**Department of Insurance
Office of the Commissioner**

Regulation 70C Replacement of Life
Insurance and Annuities
(LAC 37:XIII.8903, 8907, 8909, and 8917)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Insurance has amended its existing Regulation 70 relating to the replacement of life insurance and annuities. This action complies with the statutory law administered by the Department of Insurance.

These amendments are needed to facilitate certain changes deemed necessary to allow for insurance transactions completed by electronic means. The amendments affect the following sections: §§8903, 8907, 8909 and 8917.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 89. Regulation 70C Replacement of Life
Insurance and Annuities**

§8903. Definitions

* * *

Electronic Means relating to sales presentations conducted by a producer utilizing technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities where all signatures are obtained via electronic signature technology.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:644.1

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 26:1300 (June 2000), amended LR 28:1596 (July 2002).

§8907. Duties of Producers

A.1. - 2. ...

3. Notwithstanding Paragraph A.2 above, when the sales presentation is conducted by electronic means and all signatures are obtained via electronic signature technology, the meaning of "at the time of taking the application" shall be extended to allow for the Producer's submission of electronic information to the company. The requirements of Paragraph A.2 are deemed met when a copy of the required replacement notice electronically signed at the presentation is provided to the applicant within two business days following submission of the case to the company. In no event shall the time for providing the notice exceed five business days from the date the applicant signed the application.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:644.1

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 26:1301 (June 2000), amended LR 28:1597 (July 2002).

§8909. Duties of Insurers that Use Producers

A. - C.2.b. ...

c. provide the applicant a hard copy of the required replacement notice within two business days following a producer's submission of case conducted by electronic means. In order to show compliance with §8907.A.2 and 3, the provision must occur no later than five business days from the date of applicant's signing the application.

C.3. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:644.1

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 26:1302 (June 2000), amended LR 28:1597 (July 2002).

§8917. Violations and Penalties

A. Any failure to comply with this Regulation shall be considered a violation of R.S. 22:1214. Examples of violations include:

1. - 5. ...

6. the company's failure to provide the applicant a hard copy of the required replacement notice within two business days following the submission of a case conducted by electronic means. All such provisions must occur no later than five business days from the date of applicant's signing the application.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:644.1

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 26:1304 (June 2000), amended LR 28:1597 (July 2002).

J. Robert Wooley
Acting Commissioner

0207#029

RULE

**Department of Public Safety and Corrections
Board of Parole**

Public Hearings
Risk Review Panel Applicants
(LAC 22:XI.511)

The Louisiana Board of Parole, in accordance with R.S. 49:950 et seq., has amended LAC 22:XI.511, Public Hearings. This Rule is being amended to facilitate the handling of favorable recommendations from the Louisiana Risk Review Panel.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part XI. Board of Parole

Chapter 5. Meetings and Hearings of the Board of Parole

§511. Public Hearings

A. - F. ...

G. When the Louisiana Board of Parole receives a favorable recommendation from any of the three existing Louisiana Risk Review Panels (South, Central and/or North Louisiana Risk Review Panel), or the Louisiana Board of Pardons regarding a Risk Review Panel recommendation previously submitted to the Board of Pardons, said recommendation shall be accepted and scheduled for a public hearing as soon as possible. A Risk Review Panel recommendation may be set for a hearing at a time and date designated by the vice-chairman, at his/her sole discretion, notwithstanding any rule contained herein to the contrary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2299 (December 1998), amended LR 28:1597 (July 2002).

Fred Y. Clark
Chairman

0207#069

RULE

**Department of Public Safety and Corrections
Office of the State Fire Marshal**

State Uniform Construction Code (LAC 55.V.4001)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1725 et seq., relative to the authority of the State Fire Marshal to promulgate rules and regulations and to declare the content of the State Uniform Construction Code, the State Fire Marshal has adopted this Rule and declares that the State Uniform Construction Code shall consist of the 1997 edition of the Standard Building Code (SBC) as published by the Southern Building Code Congress International and the 1999 edition of the National Electrical Code (NEC) as published by the National Fire Protection Association.

**Title 55
PUBLIC SAFETY**

Part V. Fire Protection

Chapter 40. State Uniform Construction Code

§4001. State Uniform Construction Code

A. The Office of state Fire Marshal hereby adopts the 1997 edition of the Standard Building Code as published by the Southern Building Code Congress International, Inc., and the 1999 edition of the National Electrical Code as published by the National Fire Protection Association as the State Uniform Construction Code.

B. In accordance with the requirements set forth in R.S. 40:1725 et seq., plans and specifications for any and all buildings to be constructed in the state after December 20, 2001 shall comply with the minimum standards contained in the State Uniform Construction Code.

C. Alterations, remodeling or repairs performed after December 20, 2001 to existing buildings, shall be performed in accordance with the State Uniform Construction Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1725, R.S. 40:1726, R.S. 40:1727, R.S. 40:1728, R.S. 40:1729 AND R.S. 40:1730.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 28:1598 (July 2002).

V.J. Bella
State Fire Marshal

0207#016

RULE

**Department of Social Services
Office of Family Support**

TANF Review
(LAC 67:III.902, 1207, 2902, 5203, 5305, and 5407)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, §§902 and 1207 in the Family Independence Temporary Assistance Program (FITAP), §2902 in the Family Independence Work Program (FIND Work), §5203 in the Wrap-Around Child Care Program, §5305 in the Kinship Care Subsidy Program (KCSP), and §5407 in the Teen Pregnancy Prevention Program. The amendments were effected February 5, 2002, by a Declaration of Emergency.

These changes are corrections made at the direction of the United States Department of Health and Human Services, Administration for Children and Families, following a review of Louisiana's Temporary Assistance for Needy Families (TANF) State Plan for these programs, all of which are funded by the TANF Block Grant to Louisiana.

**Title 67
SOCIAL SERVICES**

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 9. Administration

§902. State Plan

A. The Title IV-A State Plan as it existed on August 21, 1996, is hereby adopted to the extent that its provisions are

not in conflict with any emergency or normal rules adopted or implemented on or after August 21, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474, R.S. 46:233 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:448 (April 1997), amended LR 28:1598 (July 2002).

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§1207. Certification Period and Reapplication

A. Certification periods of a set duration will be assigned. In order to continue to receive benefits, the household must timely reapply and be determined eligible. In the month preceding the final month of certification, a notice of expiration and Application for Continued Assistance will be provided to the household. The notice shall inform the household that failure to timely reapply will result in closure and include the right to a fair hearing. If the payee fails, without good cause, to keep a scheduled appointment, the case will be closed without further notification. Also, if during the application process, a change is reported which results in a determination of ineligibility or a reduction in benefits, this change will be made effective the following month.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), amended LR 28:1598 (July 2002).

Subpart 5. Family Independence Work Program (FIND Work)

Chapter 29. Organization

Subchapter A. Designation and Authority of State Agency

§2902. State Plan

A. The Title IV-F and IV-A/F State Plan as it existed on August 21, 1996, is hereby adopted to the extent that its provisions are not in conflict with any emergency or normal rules adopted or implemented on or after August 21, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474, R.S. 46:233 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:450 (April 1997), amended LR 28:1598 (July 2002).

Subpart 12. Child Care Assistance

Chapter 52. Wrap-Around Child Care Program

§5203. Conditions of Eligibility

A. - D. ...

E. The household must provide the information and verification necessary for determining eligibility and payment amount. Required verification includes:

1. proof of social security numbers, that is, each applicant for, or recipient of, Wrap-Around Child Care is required to furnish a Social Security number or to apply for a Social Security number if such a number has not been issued or is not known;

E.2. - G ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March

2001), amended LR 27:1560 (September 2001), LR 28:1598 (July 2002).

Subpart 13. Kinship Care Subsidy Program (KCSP)
Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§5305. Certification Period and Reapplication

A. Certification periods of a set duration will be assigned. In order to continue to receive benefits, the household must timely reapply and be determined eligible. In the month preceding the final month of certification, a notice of expiration and Application for Continued Assistance will be provided to the household. The notice shall inform the household that failure to timely reapply will result in closure and include the right to a fair hearing. If the payee fails, without good cause, to keep a scheduled appointment, the case will be closed without further notification. Also, if during the re-application process, a change is reported which results in a determination of ineligibility the case will be closed.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000), amended LR 28:1599 (July 2002).

Subpart 14. Teen Pregnancy Prevention
Chapter 54. Teen Pregnancy Prevention Program
§5407. Program Activities

A. The following program activities shall be used to coordinate the teen-oriented programs in Louisiana. These activities allow for expanding, redeveloping, and refining of these programs to ensure that the goals and objectives will be met:

1. - 7. ...

8. outreach and education on the problems of statutory rape directed towards law enforcement, education, and counseling services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:1019 (July 2001), amended LR 28:1599 (July 2002).

Gwendolyn P. Hamilton
Secretary

0207#065

RULE

Department of Social Services
Office of Family Support

TANF Revie wCAliens
(LAC 67:III.1223, 1931, 1932, and 5323)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Chapter 12, Family Independence Temporary Assistance Program (FITAP), Chapter 19, Food Stamp Program, and Chapter 53, Kinship Care Subsidy Program (KCSP) by amending §1223 in the Family Independence Temporary Assistance Program (FITAP),

§1931 and 1932 in the Food Stamp Program, and §5323 in the Kinship Care Subsidy Program (KCSP).

These changes are corrections being made at the direction of the United States Department of Health and Human Services, Administration for Children and Families, following a review of the FITAP chapter of Louisiana's TANF State Plan. Since federal regulations regarding citizenship and alien eligibility apply to the Kinship Care Subsidy and Food Stamp Programs, review of LAC regulations and program policy revealed that corrections were also needed regarding food stamps and KCSP.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1223. Citizenship

A. Each FITAP recipient must be a United States citizen, a non-citizen national, or a qualified alien. A non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals. A qualified alien is:

1. - 4. ...

5. an alien whose deportation is withheld under §243(h) of such Act [as in effect immediately before the effective date (April 1, 1997) of §307 of Division C of Public Law 104-208] or §241(b)(3) of such Act [as amended by Section 305(a) of Division C of Public Law 104-208];

6. - 8.b. ...

c. cancellation of removal under Section 1229b of the INA (as in effect prior to April 1, 1997); or

d. ...

e. cancellation of removal pursuant to section 1229b(b)(2) of the INA;

9. an alien child of a battered parent or the alien parent of a battered child as described in §1223.A.8; or

10. an alien who is a victim of a severe form of trafficking in persons.

B. Time-Limited Benefits. A qualified alien who enters the United States on or after August 22, 1996, is ineligible for five years from the date of entry into the United States unless:

1. - 2. ...

3. the alien's deportation is withheld under §243(h) of such Act [as in effect immediately before the effective date (April 1, 1997) of §307 of Division C of Public Law 104-208] or §241(b)(3) of such Act [as amended by §305(a) of Division C of Public Law 104-208];

4. ...

5. the alien is an *Amerasian* immigrant admitted pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 as amended;

6. - 7. ...

8. the alien is a victim of a severe form of trafficking in persons.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., P.L. 106-386.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2448 (December 1999), amended LR 26:1342 (June 2000), LR 27:2263 (December 2001), LR 28:1599 (July 2002).

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter D. Citizenship and Alien Status

§1931. Qualified Aliens

A. In addition to U.S. citizens, the following qualified aliens are eligible for benefits:

1. - 4. ...
5. an alien whose deportation is withheld under §243(h) of such Act [as in effect immediately before the effective date (April 1, 1997) of §307 of Division C of Public Law 104-208] or §241(b)(3) of such Act [as amended by Section 305(a) of Division C of Public Law 104-208];
6. - 8.b. ...
 - c. cancellation of removal under Section 1229b of the INA (as in effect prior to April 1, 1997); or
 - d. ...
 - e. cancellation of removal pursuant to Section 1229b(b)(2) of the INA;
9. an alien child of a battered parent or the alien parent of a battered child as described in §1931.A.8; or,
10. an alien who is the victim of a severe form of trafficking in persons.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 104-208, P.L. 105-33, P.L. 105-185, and P.L. 106-386.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 7:265 (May 1981), amended by the Department of Social Services, Office of Family Support, LR 22:286 (April 1996), LR 25:710 (April 1999), LR 28:1600 (July 2002).

§1932. Time Limitations for Certain Aliens

A. The following qualified aliens are eligible for benefits for a period not to exceed seven years after they obtain designated alien status:

1. - 2. ...
3. an alien whose deportation is withheld under §243(h) of such ACT [as in effect immediately before effective date (April 1, 1997) of §307 of Division C of P.L. 104-208] or §241(b)(3) of such Act [as amended by Section 305(a) of Division C of P.L. 104-208];
4. - 5. ...
6. an alien who is the victim of a severe form of trafficking in persons.

B. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 105-33, P.L. 105-185, and P.L. 106-386.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:711 (April 1999), amended LR 28:1600 (July 2002).

Subpart 13. Kinship Care Subsidy Program (KCSP)

Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§5323. Citizenship

A. Each KCSP recipient must be a United States citizen, a non-citizen national, or a qualified alien. A non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain's Island) on or

after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals. A qualified alien is:

1. - 4. ...
5. an alien whose deportation is withheld under §243(h) of such Act [as in effect immediately before the effective date (April 1, 1997) of §307 of Division C of Public Law 104-208] or §241(b)(3) of such Act [as amended by Section 305(a) of Division C of Public Law 104-208];
6. - 8.b. ...
 - c. cancellation of removal under Section 1229b of the INA (as in effect prior to April 1, 1997); or
 - d. ...
 - e. cancellation of removal pursuant to section 1229b(b)(2) of the INA;
9. an alien child of a battered parent or the alien parent of a battered child as described in §1223A.8; or
10. an alien who is a victim of a severe form of trafficking in persons.

B. Time-limited Benefits. A qualified alien who enters the United States on or after August 22, 1996 is ineligible for five years from the date of entry into the United States unless:

1. - 2. ...
3. the alien's deportation is withheld under §243(h) of such Act [as in effect immediately before the effective date (April 1, 1997) of §307 of Division C of Public Law 104-208] or §241(b)(3) of such Act [as amended by §305(a) of Division C of Public Law 104-208];
4. ...
5. the alien is an *Amerasian* immigrant admitted pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 as amended;
6. - 7. ...
8. the alien is a victim of a severe form of trafficking in persons.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, P.L. 106-386.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:352 (February 2000), amended LR 27:2264 (December 2001), LR 28:1600 (July 2002).

Gwendolyn P. Hamilton
Secretary

0207#064

RULE

**Department of Transportation and Development
Office of Weights, Measures and Standards**

Critical Off-Road Equipment Permit Requirements
(LAC 73:I.1709)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development has amended a rule entitled "Critical Off-Road Equipment Permit Requirements," in accordance with R.S. 32:386-389.

Title 73
WEIGHTS, MEASURES AND STANDARDS

Part I. Weights and Standards

Chapter 17. Requirements for Permitting Off-Road Equipment

§1709. Critical Off-Road Equipment Permit Requirements

A. ...

B. The owner shall provide escort service during the move in accordance with the department's escort procedures and regulations to control traffic with the following exception: Equipment classified as critical off-road equipment in which no single axle is in excess of 30,000 pounds, no tandem axles are in excess of 54,000 pounds and no tridum axles are in excess of 60,000 pounds shall be exempt from the escort requirement.

C. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32.2, et seq. and R. S. 32:386-389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:120 (February 1996), LR 28:1601 (July 2002).

Kam K. Movassaghi, Ph.D., P.E.
Secretary

0207#062

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Experimental Fisheries ProgramCPermits (LAC 76:VII.701)

The secretary of Department of Wildlife and Fisheries has amended the following rule which provides for the harvest of underutilized species under the experimental fisheries program and the issuance of permits.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 7. Experimental Fisheries Programs

§701. Permits

A. - B.9. ...

10. Permitted vessel and permitted gear is the specific gear and vessel designated on the permit.

11. When a permit is issued, only the permitted specie(s) can be retained. All other species shall be immediately returned to waters from which they were caught. No other fish may be in the possession of the permittee and all fish on board the permitted vessel shall have the head and caudal fin (tail) intact.

12. The permittee shall have the permit in possession at all times when using permitted gear or harvesting permitted specie(s). Permit holder shall be on board permitted vessel when operating under conditions of permit. No permit is transferable without written permission from the department secretary.

13. When permitted gear is on board permitted vessel or in possession of permittee, permittee and vessel are assumed to be operating under conditions of the permit. No

gear other than permitted gear may be on board or in possession of permittee.

14. If citation(s) are issued to any permittee for violation of a Class Two fish or game law or conditions regulated by the permit, all permittee's permits shall be suspended until such time as the permittee appears before the department's officials for the purpose of reviewing the citation(s) issued. The secretary, after reviewing the proceedings, may reinstate or revoke the permit, and the permittee may lose all rights and privileges to participate in the program.

15. Any violation of the conditions of the permit shall result in the immediate suspension of the permit and forfeiture of the deposit and may result in the permanent revocation of the permit.

C. - D.8. ...

9. The harvest of shad (*Dorosoma sp.*) and skipjack (*Alosa chrysochloris*) with an experimental seine.

a. Closed Seasons, Times and Areas

i. The season for the commercial taking of shad and skipjack under the provision of the experimental seine permit shall be closed during the months of July, August, September and October of each year. Shad and skipjack may not be taken commercially with an experimental seine at any time outside of this season.

ii. Commercial harvest of shad and skipjack with an experimental seine under the provisions of this section shall not be allowed on Saturday and Sunday. There shall be no commercial taking of shad and skipjack with an experimental seine during the period after sunset and before sunrise.

iii. Experimental seines shall not be used in areas closed to seining.

b. Commercial Taking

i. Only shad and skipjack may be taken; all other species shall be immediately returned to waters from which they were caught; no other fish may be in the possession of the permitted and all fish on board of the permitted vessel shall have the head and caudal fin (tail) intact.

ii. An experimental seine is a seine with a mesh size not less than one-inch bar and two inches stretched and not more than two inches bar and four inches stretched, not exceeding 1,200 feet in length. The experimental seine may not be constructed of monofilament.

iii. Only "strike" fishing will be permitted; this means the school of fish to be taken must be visible from the surface and the seine then placed around the selected school.

iv. The use of more than one experimental seine from any one or more vessels at any time is prohibited.

v. No more than two vessels may fish an experimental seine at one time.

vi. Experimental seines shall not be used in a manner that unduly restricts navigation of other vessels.

vii. Experimental seines shall not be left unattended as defined in Title 56 and shall be actively fished at all times by the permittee.

viii. Each experimental seine shall have attached to each end a one-gallon jug painted international orange and marked with black lettering; the word "experimental" and the permit number shall be legibly displayed on the jug.

ix. The permitted gear shall only be fished in the freshwater areas of the state.

x. All provisions of Title 56 shall apply to persons involved in any experimental fishery or possessing any commercial gear.

c. Commercial Limits. During the season, there shall be no daily take or possession limit for the commercial harvest of shad and skipjack by properly licensed and permitted fishermen.

d. Permits

i. Any person who has been convicted of an offense under the provisions of the experimental fishery permit program shall not participate in the harvest, in any manner, of fish taken under an experimental permit.

ii. No person shall receive more than one experimental seine permit to commercially take shad and skipjack.

iii. This permit along with other applicable licenses authorize the bearer to sell his shad and skipjack herring.

iv. Violating any provision or regulations of the experimental fishery permit shall deem a person not to be operating under the provisions of the program and shall subject the individual to the statutory requirements and penalties as provided for in Title 56.

v. The permitted gear must be properly licensed as a fish seine.

e. General Provisions. Effective with the closure of the season for using the experimental seine permit for shad and skipjack, the possession of the experimental seine on the waters of the state shall be prohibited. Nothing shall prohibit the possession, sale, barter or exchange off the water of shad and skipjack legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4 and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S. 56:306.

10. Shad (*Dorosoma sp.*) and Skipjack (*Alosa chrysochloris*) Gill Net Permit (Lake Des Allemands Only)

a. Closed Seasons, Times and Areas

i. The season for the commercial taking of shad and skipjack under the provision of the experimental gill net permit shall be closed during the months of July, August, September and October of each year. Shad and skipjack may not be taken commercially with an experimental gill net at any time outside of this season.

ii. Commercial harvest of shad and skipjack with an experimental gill net under the provisions of this section shall not be allowed on Saturday and Sunday. There shall be no commercial taking of shad and skipjack with an experimental gill net during the period after sunset and before sunrise.

iii. Experimental gill net shall not be used in areas closed to gill netting.

b. Commercial Taking

i. Only shad and skipjack may be taken; all other species shall be immediately returned to waters from which they were caught; no other fish may be in the possession of the permitted and all fish on board of the permitted vessel shall have the head and caudal fin (tail) intact.

ii. An experimental gill net is a gill net with a mesh size not less than one-inch bar and two inches stretched and not more than two inches bar and four inches stretched, not exceeding 1,200 feet in length.

iii. Only "strike" gill net fishing will be permitted; this means the school of fish to be taken must be visible from the surface and the gill net then placed in or directly near the selected school. Once deployed, the experimental gill net is to remain stationary until being run (gill net remains in place while fish are removed) or gill net is retrieved (gill net remains in place until lifted into boat).

iv. The use of more than one experimental gill net from any one or more vessels at any time is prohibited.

v. No more than two vessels may fish an experimental gill net at one time.

vi. Experimental gill net shall not be used in a manner that unduly restricts navigation of other vessels.

vii. Experimental gill net shall not be left unattended as defined in Title 56.

viii. Each experimental gill net shall have attached to each end a one-gallon jug painted international orange and marked with black lettering; the word "experimental" and the permit number shall be legibly displayed on the jug.

ix. The permitted gear shall only be fished in Lac Des Allemands. Streams, bayous, canals and other connecting waterbodies are not included in this permit.

x. All provisions of Title 56 shall apply to persons involved in any experimental fishery or possessing any commercial gear.

c. Commercial Limits. During the season, there shall be no daily take or possession limit for the commercial harvest of shad and skipjack by properly licensed and permitted fishermen.

d. Permits

i. Any person who has been convicted of an offense under the provisions of the experimental fishery permit program shall not participate in the harvest, in any manner, of fish taken under an experimental permit.

ii. No person shall receive more than one gill net permit to commercially take shad and skipjack.

iii. This permit along with other applicable licenses authorize the bearer to sell his shad and skipjack herring.

iv. Violating any provision or regulations of the experimental fishery permit shall deem a person not to be operating under the provisions of the program and shall subject the individual to the statutory requirements and penalties as provided for in Title 56.

v. The permitted gear must be properly licensed as a freshwater gill net.

e. General Provisions. Effective with the closure of the season for using the experimental gill net permit for shad and skipjack, the possession of the experimental gill net on the waters of the state shall be prohibited. Nothing shall prohibit the possession, sale, barter or exchange off the water of shad and skipjack legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4 and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S. 56:306.

11. Experimental Freshwater River Shrimp (*Macrobrachium ohione*) Permit

a. May experimentally fish a wire mesh shrimp net, 1/4-inch bar, 6 feet in length in the Intercoastal Canal and Mississippi River within 1.5 miles of the boat ramp adjacent to the locks in Port Allen.

b. Only freshwater river shrimp may be taken; all other species shall be immediately returned to waters from which they were caught; no other fish may be in the possession of the permittee.

c. The permittee shall have the permit in possession at all times when using permitted gear; permittee shall be on board permitted vessel when operating under conditions of permit.

d. The permitted gear must be properly licensed as a Shrimp Trawl and may be fished in freshwater areas only.

e. Permitted gear must be marked using a one-gallon jug painted international orange and marked with black lettering; the word "experimental" and the permit number should be legibly displayed on the jug.

f. This permit may be canceled at any time if in the judgment of the secretary or his designee, the permit is being used for purposes other than that for which the permit was issued.

g. Violating any provision or regulations of the experimental fishery permit shall deem a person not to be operating under the provisions of the program and shall subject the individual to the statutory requirements and penalties as provided for in Title 56.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:571.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:119 (February 1986), amended LR 12:847 (December 1986), amended by the Office of Fisheries, LR 15:1098 (December 1989), amended by the Wildlife and Fisheries Commission, LR 28:1601 (July 2002).

James H. Jenkins, Jr.
Secretary

0207#061

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

**General and Wildlife Management Area (WMA) Hunting
(LAC 76:XIX.111)**

The Wildlife and Fisheries Commission has promulgated rules and regulations governing the hunting of resident game birds and game quadrupeds.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§111. General and Wildlife Management Area

Hunting Rules and Regulations

A. Hunting Seasons and Wildlife Management Area Regulations

1. The rules and regulations contained within this digest have been officially approved and adopted by the Wildlife and Fisheries Commission under authority vested by Sections 115 and 116 of Title 56 of the Louisiana Revised Statutes of 1950 and are in full force and effect in conjunction with all applicable statutory laws. The Secretary of the Department of Wildlife and Fisheries has the authority

to close or alter seasons in emergency situations in order to protect fish and wildlife resources.

2. Pursuant to Section 40.1 of Title 56 of the Louisiana Revised Statutes of 1950, the Wildlife and Fisheries Commission has adopted monetary values which are assigned to all illegally taken, possessed, injured or destroyed fish, wild birds, wild quadrupeds and other wildlife and aquatic life. Anyone taking, possessing, injuring or destroying fish, wild birds, wild quadrupeds and other wildlife and aquatic life shall be required to reimburse the Department of Wildlife and Fisheries a sum of money equal to the value of the wildlife illegally taken, possessed, injured or destroyed. This monetary reimbursement shall be in addition to any and all criminal penalties imposed for the illegal act.

B. Resident Game Birds and Animals

1. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

C. Other Season Dates

1. Turkey. Please refer to separate pamphlet.

2. Raccoon and Opossum. No closed season. Raccoon and opossum can be taken at night by one or more licensed hunters with one or more dogs and one .22 rimfire firearm. A licensed hunter may take raccoon or opossum with .22 rimfire rifle, .36 caliber or smaller muzzleloader rifle or shotgun during daylight hours during the open rabbit season. Hunting from boats or motor vehicles is prohibited. No bag limit for nighttime or daytime raccoon or opossum hunting during the open trapping season except on certain WMAs as listed. The remainder of the year, the raccoon and opossum bag limit for daytime or nighttime is one per person per day or night. No one who hunts raccoons or opossums as prescribed above shall pelt during the closed trapping season nor sell skins or carcasses of raccoons and opossums taken during the open trapping season unless he is the holder of a valid trapping license which shall be required in addition to his basic hunting license. Pelting or selling carcasses is illegal during closed trapping season.

3. Nutria. On WMAs and private property nutria may be taken recreationally from September 1 through February 28 during legal shooting hours by any legal hunting method with no limit. On WMAs during waterfowl seasons, nutria may be taken only with the use of shotguns with shot no larger than BB lead or F steel and during gun deer seasons anyone taking nutria must display 400 square inches of "hunter orange" and wear a "hunter orange" cap or hat. Pelting or selling of carcasses is illegal except when taken by a licensed trapper during the trapping season. Trespass upon private property without consent for the purpose of taking nutria is punishable by fines and possible jail time (R.S. 56:265).

4. Blackbirds and Crows. The season for crows shall be September 1 through January 2 with no limit; however crows, blackbirds, cowbirds and grackles may be taken year round during legal shooting hours if they are depredating or about to depredate upon ornamentals or shade trees, agricultural crops, livestock, wildlife, or when concentrated in such numbers as to cause a health hazard. Louisiana has determined that the birds listed above are crop depredators and that crows have been implicated in the spread of the West Nile virus in humans.

5. Pheasant. Closed.
6. Falconry. Special permit required. Resident and migratory game species except turkeys may be taken. Seasons and bag limits are the same as for statewide and WMA regulations except squirrels may be taken by licensed falconers until the last day of February. Refer to LAC 76:V.301 for specific Falconry Rules.

7. Licensed Hunting Preserve. October 1-April 30. Pen-raised birds only. No limit entire season. Refer to LAC 76:V.305 for specific Hunting Preserve Rules.

8. Deer Management Assistance Program (DMAP). Land enrolled in the voluntary program will be assessed a \$25 registration fee and \$0.05/acre fee. Deer management assistance tags must be in the possession of the hunter and attached and locked to antlerless deer (including those taken on either-sex days and those taken with bow or muzzleloader) through the hock in a manner that it cannot be removed before the deer is moved from the site of the kill. Failure to do so is a violation of R.S. 56:115. Failing to follow DMAP rules and regulations may result in suspension and cancellation of the program on those lands involved. Refer to LAC 76:V.111 for specific DMAP Rules.

9. Farm Raised White-Tailed Deer and Exotics on Licensed Supplemented Shooting Preserves

a. Definitions

Exotics for purposes of this rule means any animal of the family Bovidae [except the Tribe Bovini (cattle)] or Cervidae which is not indigenous to Louisiana and which is confined on a Supplemented Hunting Preserve. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

Hunting in its different tenses and for purposes of this rule means to take or attempt to take, in accordance with R.S. 56:8.

Same as Outside for purposes of this rule means hunting on a Supplemented Hunting Preserve must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission (LWFC).

Supplemented Hunting Preserve for purposes of this rule means any enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the Department of Wildlife and Fisheries (LDWF) and is authorized in writing by the LDAF and LDWF to permit hunting.

White-Tailed Deer for purposes of this rule means any animal of the species *Odocoileus Virginianus* which is confined on a Supplemented Hunting Preserve.

b. Seasons

i. Farm-Raised White-Tailed Deer: Consult the regulations pamphlet.

ii. Exotics: year round.

c. Methods of Take

i. White-Tailed Deer: Same as outside.

ii. Exotics: Exotics may be taken with longbow (including compound bow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber centerfire; or muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load

exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets only.

d. Shooting Hours

i. White-Tailed Deer: Same as outside.

ii. Exotics: one-half hour before sunrise to one-half hour after sunset.

e. Bag Limit

i. Farm-Raised White-Tailed Deer: Same as outside.

ii. Exotics: No limit.

f. Hunting Licenses

i. White-Tailed Deer: Same as outside.

ii. Exotics: No person shall hunt any exotic without possessing a valid basic and big game hunting license.

g. Tagging. White-Tailed Deer and Exotics: Each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

D. Hunting General Provisions

1. A basic resident or non-resident hunting license is required of all persons to hunt, take, possess or cause to be transported by any other person any wild bird or quadruped. See information below for exceptions.

2. All persons born on or after September 1, 1969 must show proof of satisfactorily completing a hunter safety course approved by LDWF to purchase a basic hunting license, except any active or veteran member of the United States armed services or any post-certified law enforcement officer. Application for the exemption shall be filed in person at the Department of Wildlife and Fisheries main office building in the city of Baton Rouge. A person younger than 16 years of age may hunt without such certificate if he is accompanied by, and is under the direct supervision of a person 18 years of age or older, except during a statewide youth deer hunt, the youth must have satisfactorily completed a hunter safety course approved by LDWF to participate.

3. A big game license is required in addition to the basic hunting license to hunt, take, possess or cause to be transported any deer or turkey. A separate wild turkey stamp is required in addition to the basic hunting license and the big game license to hunt, take, possess or cause to be transported any turkey.

4. Taking game quadrupeds or birds from aircraft or participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

5. Methods of Taking Resident Game Birds and Quadrupeds

a. Use of a longbow (including compound bow) and arrow or a shotgun not larger than a 10 gauge fired from the shoulder without a rest shall be legal for taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey and migratory game birds. It shall be illegal to hunt or take squirrels or rabbits at any time with a breech-loaded rifle or handgun larger than a .22 caliber rimfire or a muzzleloader rifle larger than .36 caliber. During closed deer gun season, it shall be illegal to

possess shotgun shells loaded with slugs or shot larger than BB lead or F steel shot while small game hunting.

b. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs is prohibited when or where a still hunting season or area is designated, and will be strictly enforced. Shotguns larger than 10 gauge or capable of holding more than three shells shall be prohibited. Plugs used in shotguns must be incapable of being removed without disassembly. Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

6. Nuisance Animals. Landowners or their designees may remove beaver and nutria causing damage to their property without a special permit. Water set traps and firearms may be used to remove beaver; nutria may be removed by any means except that nutria cannot be taken by the use of headlight and gun between the hours of sunset and sunrise. With a special permit issued by the department, beavers may be taken between one-half hour after official sunset to one-half hour before official sunrise for a period of three consecutive calendar evenings from the effective date of the permit. For specific details contact a regional office near you. Any nuisance beaver or nutria trapped or shot outside open trapping season cannot be pelted or sold. A trapping license is required to sell or pelt nuisance beavers or nutria taken during open trapping season. Squirrels found destroying commercial crops of pecans may be taken year-round by permit issued by the department. This permit shall be valid for 30 days from the date of issuance. Contact the local regional office for details.

7. Threatened and Endangered Species. Louisiana black bear, Louisiana pearl shell (mussel), sea turtles, gopher tortoise, ringed sawback turtle, brown pelican, bald eagle, peregrine falcon, whooping crane, Eskimo curlew, piping plover, interior least tern, ivory-billed woodpecker, red-cockaded woodpecker, Bachman's warbler, West Indian manatee, Florida panther, pallid sturgeon, Gulf sturgeon, Attwater's greater prairie chicken, whales and red wolf. Taking or harassment of any of these species is a violation of state and federal laws.

8. Unregulated Quadrupeds. Holders of a legal hunting license may take coyotes, unmarked hogs where legal, and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs is prohibited in all turkey hunting areas during the open turkey season. Coyote hunting is restricted to "chase only" during still hunting segments of the firearm and archery only season for deer. Foxes and bobcats are protected quadrupeds and may be taken only with traps by licensed trappers during the trapping season. Remainder of the year "chase only" allowed by licensed hunters.

9. Hunting and/or Discharging Firearms on Public Roads. Hunting, standing, loitering or shooting game quadrupeds or game birds with a gun during open season while on a public highway or public road right-of-way is prohibited. Hunting or the discharge of firearms on roads or highways located on public levees or within 100 feet from the centerline of such levee roads or highways is prohibited. Spot lighting or shining from public roads is prohibited by state law. Hunting from all public roads and rights-of-way is prohibited and these provisions will be strictly enforced.

10. Tags. Any part of the deer or wild turkey divided shall have affixed thereto the name, date, address and big game license number of the person killing the deer or wild turkey and the sex of that animal. This information shall be legibly written in pen or pencil, on any piece of paper or cardboard or any material, which is attached or secured to or enclosing the part or parts. On lands enrolled in DMAP, deer management assistance tags must be attached and locked through the hock of antlerless deer, (including those taken with bow, muzzleloader and those antlerless deer taken on either-sex days) in a manner that it cannot be removed, before the deer is moved from the site of the kill.

11. Sex Identification. Positive evidence of sex identification, including the head, shall remain on any deer taken or killed within the state of Louisiana, or on all turkeys taken or killed during any special gobbler season when killing of turkey hens is prohibited, so long as such deer or turkey is kept in camp or field, or is in route to the domicile of its possessor, or until such deer or turkey has been stored at the domicile of its possessor or divided at a cold storage facility and has become identifiable as food rather than as wild game.

E. General Deer Hunting Regulations

1. One antlered and one antlerless (when legal on private lands) deer per day except on Wildlife Management Areas, Federal Refuges and National Forest Lands where the daily limit shall be one deer per day. Six per season (all segments included) by all methods of take.

2. A legal buck is a deer with visible antler of hardened bony material, broken naturally through the skin. Killing bucks without at least one visible antler as described above and killing does is prohibited except where specifically allowed and except in West Baton Rouge and Pointe Coupee Parishes and that portion of Iberville Parish west of the Mississippi River (excluding the Sherburne Wildlife Management Complex and those private lands owned by Adams and Summers, which are totally surrounded by the Sherburne Complex) where a legal buck shall be defined as a deer with at least six points or a deer with both spikes three inches long or less. To be counted as a point, a projection must be at least one inch long and its length must exceed the length of its base. The beam tip is counted as a point but not measured as a point.

3. Deer hunting restricted to legal bucks only, except where otherwise allowed.

4. Either-sex deer is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

5. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with anything other than buckshot or rifled slug. Handguns may be used for hunting.

6. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

7. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with

dogs is allowed in all other areas having open deer seasons that are not specifically designated as still hunting only. Except in wildlife management areas, a leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address, and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

8. Areas not specifically designated as open are closed.

9. Muzzleloader Segment. (Special license and muzzleloader firearms specifications apply only to the special state, WMA, National Forest and Preserves, and Federal Refuge seasons.) Still hunt only. Specific WMAs will also be open, check WMA schedule for specific details. Muzzleloader license required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all deer hunting areas except Area 5 and as specified on Public Areas. It is unlawful to carry a gun, other than a muzzleloader, including those powered by air or other means, while hunting during the special muzzleloader segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot only).

a. Legal Muzzleloader Firearms For Special Season. Rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, use black powder or approved substitute only, take ball or bullet projectile only, including sabot bullets and may be fitted with magnified scopes. This includes muzzleloaders known as "inline" muzzleloaders.

10. Archery Segment. Consult regulations pamphlet. WMA seasons are the same as outside except as noted below. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Residents 60 years of age and older may use a crossbow without a special permit or license. Either-sex deer may be taken in all areas open for deer hunting except when a bucks only season is in progress for gun hunting, archer's must conform to the bucks only regulations. Either-sex deer may be taken on WMAs at anytime during archery season except when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Lake Boeuf, and Pointe-aux-Chenes WMAs (see schedule).

a. Bow and Arrow Regulations. Hunting arrows for deer must have well-sharpened metal broadhead blades not less than 7/8 inch in width. Bow and arrow fishermen must have a sport fishing license and not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a). to carry a gun, including those powered by air or other means, while hunting with bow and arrow during the special bow and arrow deer season except it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only;

(b). to have in possession or use any poisoned or drugged arrow, arrows with explosive tips, or any bow

drawn, held or released by mechanical means except that hand held releases are lawful;

(c). to hunt deer with a bow having a pull less than 30 pounds;

(d). to hunt with a bow or crossbow fitted with an infrared or laser sight.

11. Hunter Orange. Any person hunting deer shall display on his head, chest and/or back a total of not less than 400 square inches of "hunter orange" during the open deer gun season including muzzleloader season. Persons hunting on privately owned, legally posted land may wear a hunter orange cap or hat in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned and legally posted or to archery deer hunters hunting on legally posted lands where firearm hunting is not allowed by agreement of the landowner or lessee. However, anyone hunting deer on such lands where hunting with firearms is allowed shall be required to display the 400 square inches or a hunter orange cap or hat while walking to and from elevated stands. While a person is hunting from an elevated stand, the 400 square inches or cap or hat may be concealed. Warning: deer hunters are cautioned to watch for persons hunting other game or engaged in activities not requiring "hunter orange."

12. Special Handicapped Either-Sex Deer Season on Private Land. See regulations pamphlet for dates. Restricted to individuals with Physically Challenged Hunter Permit.

13. Special Youth Deer Hunt on Private Lands (Either-Sex). See regulations pamphlet for dates. Youth must be under the age of 16, must have proof of successfully completing a department-approved hunter safety course, and must be accompanied by an adult licensed to hunt big game. In West Baton Rouge and Pointe Coupee Parishes and that portion of Iberville Parish west of the Mississippi River antler restrictions for bucks shall be waived.

F. Description of Areas

1. Area 1.

a. All of the following parishes are open: East Feliciana, St. Helena, Concordia, Franklin, Tensas, East Baton Rouge, Madison, Washington.

b. Portions of the following parishes are also open.

i. Catahoula C All except that portion lying west of Boeuf River from Caldwell parish line to Ouachita River, north and east of Ouachita River to La. 559 at Duty Ferry, west of La. 559 to La. 124. North and west of La. 124 westward to LaSalle parish line.

ii. Grant C East of U.S. 165 and south of La. 8.

iii. LaSalle C Portion south of La. 8 from Little River eastward to La. 127 in Jena, east of La. 127 from Jena northward to U.S. 165, east of U.S. 165 from La. 127 northward to La. 124. South of La. 124 eastward to Catahoula Parish line.

iv. Livingston C North of I-12.

v. Rapides C East of U.S. 165 and north of Red River.

vi. St. Tammany C All except that portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

vii. Tangipahoa C North of I-12.

viii. West FelicianaCALL except that portion known as Raccourci and Turnbull Island.

c. Still hunting only in all or portions of the following parishes.

i. CatahoulaCSouth of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to La. 8 at Harrisonburg, west of La. 8 to La. 913, west of La. 913 and La. 15 to Deer Creek.

ii. East Feliciana and East Baton RougeCEast of Thompson Creek from the Mississippi state line to La. 10. North of La. 10 from Thompson Creek to La. 67 at Clinton, west of La. 67 from Clinton to Mississippi state line. South of Mississippi state line from La. 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of La. 67 from La. 64 north to Parish Line, south of Parish Line from La. 64 eastward to Amite River. West of Amite River southward to La. 64, north of La. 64 to La. 37 at Magnolia, east of La. 37 northward to La. 64 at Indian Mound, north of La. 64 from Indian Mound to La. 67. Also, that portion of East Feliciana Parish east of La. 67 from parish line north to La. 959, south of La. 959 east to La. 63, west of La. 63 to Amite River, west of Amite River, southward to parish line, north of parish line westward to La. 67.

iii. FranklinCALL.

iv. St. HelenaCNorth of La. 16 from Tickfaw River at Montpelier westward to La. 449, east and south of La. 449 from La. 16 at Pine Grove northward to La. 1045, south of La. 1045 from its junction with La. 449 eastward to the Tickfaw River, west of the Tickfaw River from La. 1045 southward to La. 16 at Montpelier.

v. TangipahoaCThat portion of Tangipahoa Parish north of La. 10 from the Tchefuncte River to La. 1061 at Wilmer, east of La. 1061 to La. 440 at Bolivar, south of La. 440 to the Tchefuncte River, west of the Tchefuncte River from La. 440 southward to La. 10.

vi. Washington and St. TammanyCEast of La. 21 from the Mississippi state line southward to the Bogue Chitto River, north of the Bogue Chitto River from La. 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi state line, south of the Mississippi state line from the Pearl River westward to La. 21. Also, that portion of Washington Parish west of La. 25 from the Mississippi state line southward to the Bogue Chitto River, then west of the Bogue Chitto River to its junction with the St. Tammany Parish line, north of the St. Tammany parish line to the Tangipahoa parish line, east of the Tangipahoa parish line to the Mississippi state line, south of the Mississippi state line to its junction with La. 25.

vii. West FelicianaCWest of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of U.S. 61 and La. 966, east of La. 966 from U.S. 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

2. Area 2.

a. All of the following parishes are open.

i. Bienville, Jackson, Union, Bossier, Lincoln, Webster, Caddo, Natchitoches, Winn, Claiborne, Red River, DeSoto, Sabine, Caldwell.

ii. except: Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as Area 2, except still hunting only for deer and except National Forest Land within the Evangeline Unit, Calcasieu Ranger District described in Area 2 description shall be still hunting only.

b. Portions of the following parishes are also open.

i. AllenCNorth of U.S. 190 from the parish line westward to Kinder, east of U.S. 165 from Kinder northward to La. 10 at Oakdale, north of La. 10 from Oakdale, westward to the parish line.

ii. AvoyellesCThat portion west of I-49.

iii. CatahoulaCThat portion lying west of Boeuf River from Caldwell parish line to Ouachita River, north and east of Ouachita River to La. 559 at Duty Ferry. West of La. 559 to La. 124. North and west of La. 124 westward to LaSalle parish line.

iv. EvangelineCALL except the following portions: east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte, and north of U.S. 167 east of Ville Platte.

v. GrantCALL except that portion south of La. 8 and east of U.S. 165.

vi. Jefferson Davis CNorth of U.S. 190.

vii. LaSalleCALL except south of La. 8 from Little River eastward to La. 127 in Jena, east of La. 127 from Jena northward to U.S. 165, east of U.S. 165 from La. 127 northward to La. 124. South of La. 124 eastward to Catahoula parish line.

viii. MorehouseCWest of U.S. 165 (from Arkansas state line) to Bonita, north and west of La. 140 to junction of La. 830-4 (Cooper Lake Road), west of La. 830-4 to Bastrop, west of La. 139 to junction of La. 593, west and south of La. 593 to Collinston, west of La. 138 to junction of La. 134 and north of La. 134 to Ouachita line at Wham Brake.

ix. OuachitaCALL except south of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse line at Wham Brake.

x. RapidesCALL except north of Red River and east of U.S. 165. South of La. 465 to junction of La. 121, west of La. 121 and La. 112 to Union Hill, and north of La. 113 from Union Hill to Vernon Parish line, and that portion south of Alexandria between Red River and U.S. 167 to junction of U.S. 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line.

xi. VernonCNorth of La. 10 from the parish line westward to La. 113, south of La. 113 eastward to the parish line. Also the portion north of La. 465, west of La. 117 from Kurthwood to Leesville, and north of La. 8 from Leesville to Texas state line.

c. Still hunting only in all or portions of the following parishes.

i. Claiborne and WebsterCCaney, Corney and Middlefork tracts of Kisatchie National Forest. (See Kisatchie National Forest Regulations).

ii. OuachitaCEast of Ouachita River.

iii. RapidesCWest of U.S. 167 from Alexandria southward to I-49 at Turkey Creek Exit, west of I-49

southward to Parish Line, north of Parish Line westward to U.S. 165, east of U.S. 165 northward to U.S. 167 at Alexandria. North of La. 465 from Vernon Parish line to La. 121, west of La. 121 to I-49, west of I-49 to La. 8, south and east of La. 8 to La. 118 (Mora Road), south and west of La. 118 to Natchitoches Parish line.

iv. VernonC East of Mora-Hutton Road from Natchitoches Parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to La. 465, east and north of La. 465 to Rapides Parish line.

3. Area 3.

a. All of Acadia, Cameron and Vermilion Parishes are open.

b. Portions of the following parishes are also open.

i. AllenC South of U.S. 190 and west of La. 113.

ii. BeauregardC West of La. 113. ALSO east of La. 27 from the parish line north to DeRidder and north of U.S. 190 westward from DeRidder to Texas line.

iii. CalcasieuC South of U.S. 90. Also east of La. 27 from Sulphur northward to the parish line.

iv. IberiaC West of U.S. 90 and north of La. 14.

v. Jefferson Davis C All except north of U.S. 190.

vi. LafayetteC West of I-49 and U.S. 90.

vii. RapidesC South of La. 465 to junction of La. 121, west of La. 121 and La. 112 to Union Hill and north of La. 113 from Union Hill to Vernon Parish line.

viii. St. LandryC West of U.S. 167.

ix. VernonC West and north of La. 113, south of La. 465, east of La. 117 from Kurthwood to Leesville, and south of La. 8 from Leesville to Texas state line.

4. Area 4.

a. All of East Carroll and Richland parishes are open.

b. Portions of the following parishes are open.

i. MorehouseC East of U.S. 165 (from Arkansas state line) to Bonita, south and east of La. 140 to junction of La. 830-4 (Cooper Lake Road), east of La. 830-4 to Bastrop, east of La. 139 at Bastrop to junction of La. 593, east and north of La. 593 to Collinston, east of La. 138 to junction of La. 134 and south of La. 134 to Ouachita line at Wham Brake.

ii. OuachitaC South of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse line at Wham Bake.

5. Area 5.

a. All of West Carroll Parish is open.

i. All deer hunting with firearms is for bucks only including muzzleloader season.

6. Area 6.

a. All of Orleans Parish is closed to all forms of deer hunting.

b. All of the following parishes are open: Ascension, Plaquemines, St. John, Assumption, Pointe Coupee, St. Martin, Iberville, St. Bernard, Jefferson, St. Charles, Lafourche, St. James, West Baton Rouge.

c. Portions of the following parishes are also open.

i. AvoyellesC All except that portion west of I-49.

ii. EvangelineC That portion east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte and north of U.S. 167 east of Ville Platte.

iii. IberiaC East of U.S. 90.

iv. LafayetteC East of I-49 and U.S. 90.

v. LivingstonC South of I-12.

vi. RapidesC South of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

vii. St. LandryC East of U.S. 167.

viii. St. MaryC North of U.S. 90.

ix. St. TammanyC That portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

x. TangipahoaC South of I-12.

xi. TerrebonneC North of La. 182 from Assumption Parish line eastward to Houma, east of Houma Navigation Canal southward to the Gulf of Mexico.

xii. West FelicianaC West of Mississippi River, known as Raccourci and Turnbull Islands.

d. Still hunting only in all or portions of the following parishes.

i. AvoyellesC North of La. 1 from Simmesport westward to La. 115 at Marksville, east of La. 115 from Marksville northward to the Red River near Moncla, south and west of the Red River to La. 1 at Simmesport.

ii. PlaqueminesC East of the Mississippi River.

iii. RapidesC South of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

iv. St. Bernard - All of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre.

v. St. JohnC South of Pass Manchac from Lake Pontchartrain to U.S. 51, east of U.S. 51 from Pass Manchac to La. 638 (Frenier Beach Road). North of La. 638 from U.S. 51 to Lake Pontchartrain. West of Lake Pontchartrain from La. 638 to Pass Manchac.

vi. St. LandryC Those lands surrounding Thistlethwaite WMA bounded north and east by La. 359, west by La. 10, and south by La. 103.

7. Area 7.

a. Portions of the following parishes are open.

i. Iberia and St. Mary Parishes - South of La. 14 and west U.S. Hwy. 90.

ii. TerrebonneC South of La. 182 from Assumption Parish line eastward to Houma, west of Houma Navigation Canal southward to the Gulf of Mexico.

8. Area 8.

a. Portions of the following parishes are open.

i. AllenC That portion east of La. 113 from the parish line to U.S. 190, north of U.S. 190 eastward to Kinder, west of U.S. 165 northward to La. 10 at Oakdale and south of La. 10 from Oakdale eastward to parish line.

ii. VernonC That portion east of La. 113 from the parish line northward to Pitkin, and south of La. 10 from Pitkin southward to the parish line.

iii. BeauregardC That portion lying east of La. 113. Also that portion west of La. 27 from parish line northward to DeRidder, south of U.S. 190 from DeRidder to Texas state line.

iv. CalcasieuCThat portion lying east of La. 27 from the parish line southward to Sulphur and north of U.S. 90 from Sulphur to the Texas state line.

G Wildlife Management Area Regulations

1. General.

a. The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.

b. Citizens are cautioned that by entering a WMA managed by the LDWF they may be subjecting themselves and/or their vehicles to game and/or license checks, inspections and searches.

c. Wildlife management area seasons may be altered or closed anytime by the department secretary in emergency situations (floods, fire or other critical circumstances).

d. Hunters may enter the WMA no earlier than 3:00 a.m. unless otherwise specified. On days when daily permits are required, permit stations will open 2 hours before legal shooting hours. Hunters must check out and exit the WMA no later than two hours after sunset, except for Lake Boeuf, Salvador/Timken and Pointe-aux-Chenes or as otherwise specified.

e. Lands within WMA boundaries will have the same seasons and regulations pertaining to baiting and use of dogs as the WMA within which the lands are enclosed; however, with respect to private lands enclosed within a WMA, the owner or lessee may elect to hunt deer according to the regular season dates applicable to the geographic area in which the lands are located, provided that the lands are first enrolled in DMAP. Interested parties should contact the nearest LDWF regional office for additional information.

f. Dumping garbage or trash on WMAs except in designated locations is prohibited.

g. Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.

h. Commercial activities prohibited without prior approval or unless otherwise specified.

i. Damage to or removal of trees, shrubs, hard mast (acorn, pecans, etc.) and wild plants is prohibited without prior approval. Gathering and/or removal of soft fruits, mushrooms and berries shall be limited to five gallons per person per day. Persons engaged in commercial activities must obtain a permit from the Region Office.

j. Burning of marshes is prohibited except by permit. Permits may be obtained from the Fur and Refuge Division.

k. Nature trails. Access to trails shall be limited to pedestrians only. No vehicles, ATVs, horses, mules, bicycles, etc. allowed. Removal of vegetation (standing or down) or other natural material prohibited.

l. Deer seasons are for legal buck deer unless otherwise specified.

m. Small game, when listed under the WMA regulations may include both resident game animals and game birds as well as migratory species of birds.

n. Oysters may not be harvested from any WMA, except that oysters may be harvested from private oyster leases and State Seed Grounds located within a WMA, when authorized by the Wildlife and Fisheries Commission and upon approval by the Department of Health and Hospitals.

2. Permits.

a. Daily. Daily permits when required shall be obtained at permit stations on or near each WMA after first presenting a valid hunting license to a department employee. Hunters must retain permit in possession while hunting. Hunters may enter the area no earlier than two hours before legal shooting time unless otherwise specified. Hunters must checkout daily and exit the area not later than two hours after sunset unless otherwise specified.

b. Self-Clearing Permits. A self-clearing permit is required for all activities (hunting, fishing, hiking, birdwatching, sightseeing, etc.) on WMAs unless otherwise specified. The self-clearing permit will consist of three portions: check in, check out and a vehicle tag. On WMAs where self-clearing permits are required, all persons must obtain a WMA self-clearing permit from an information station. The check in portion must be completed and put in a permit box before each day's activity on the day of the activity. Users may check-in one day in advance of use. The check out portion must be carried by each person while on the WMA and must be completed and put in a permit box immediately upon exiting the WMA or within 72 hours after checking in if hunting from a camp. Each person must leave the vehicle tag portion of his permit on the dashboard of the vehicle used to enter into the WMA in such a way that it can be easily read from outside of the vehicle. This must be done only when the vehicle is parked and left unattended on the WMA. If an ATV, boat or other type vehicle was used to enter the WMA, then the vehicle tag must be attached to that vehicle in such a manner that it can be readily seen and read. No permit is required of fishers and boaters who do not travel on a WMA road and/or launch on the WMA as long as they do not get out of the boat and onto the WMA. When mandatory deer checks are specified on WMAs, hunters must check deer at a check station. Call the appropriate region office for the location of the deer check station on these WMAs. (self-clearing permits are not required for persons only traveling through the WMA provided that the most direct route is taken and no activities or stops take place.)

c. Wild Louisiana Stamp. Persons using WMAs or other department administered lands for purposes other than hunting and fishing, such as camping, shooting on rifle ranges, berry picking, hiking, photography, bird-watching and the like, must possess one of the following: a valid Wild Louisiana stamp, a valid Louisiana fishing license, or a valid Louisiana hunting license. Persons younger than 16 or older than 60 years of age are exempt from this requirement.

3. Special Seasons

a. Youth Deer Hunt. Only youths younger than 16 years of age may hunt. All other seasons are closed except Handicapped Seasons. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of a hunter safety certification, a valid Louisiana hunting license or proof of successful completion of a hunter

safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt. Contact the appropriate region office for special check station locations when daily permits are required and maps of specific hunting areas. Either-sex deer may be taken on WMAs with youth hunts. Consult the regulations pamphlet for WMAs offering youth hunts.

b. Handicapped Season. For hunters possessing a Physically Challenged Hunter Permit only. Participants must possess a Physically Challenged Hunter Permit. Contact region office for permit application and map of specific hunting area. Consult the regulations pamphlet for WMAs offering Handicapped Seasons. Pointe-aux-Chenes will have an experimental Lottery Handicapped waterfowl hunt. Contact New Iberia Office, Fur and Refuge Division for details.

c. Deer Lottery Hunts. Hunts restricted to those persons selected as a result of the pre-application lottery. Consult the regulations pamphlet for deadlines. A non-refundable application fee must be sent with application. Contact region offices for applications. Consult regulations pamphlet for WMAs offering lottery hunts.

d. Turkey Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadlines. All turkeys must be reported at self-clearing station. Contact region offices for more details. Consult separate Turkey Hunting Regulations pamphlet for WMAs offering lottery hunts.

e. Trapping. Permits to take fur bearers from WMAs may be obtained at appropriate offices when required. Consult Annual Trapping Regulations for specific dates. All traps must be run daily. Traps with teeth are illegal. On WMAs where permits are required, each trapper must submit an annual trapping report to the region office where his permit was obtained. Non-compliance will result in forfeiture of trapping privileges on the WMAs. Permits may be obtained only between hours of 8 a.m. to 4:30 p.m. on normal working days at region offices. Hunter orange required when a deer gun season is in progress. A permit is required to carry a firearm outside of the normal hunting season and is available at the region office.

f. Raccoon Hunting. A licensed hunter may take raccoon or opossum, one per person per day, during daylight hours only, during the open rabbit season on WMAs. Nighttime Experimental Season dates for specific WMAs are for nighttime raccoon hunting and permits may be required. There is no bag limit for raccoons at night unless specified in the annual regulations pamphlet. Raccoon hunters with dogs must submit an annual report of their kill to the region office for WMAs where permits are required. Non-compliance will result in forfeiture of raccoon or all hunting privileges on WMAs. Permits, when required, may be obtained at region offices only between hours of 8 a.m. to 4:30 p.m. on normal working days.

g. Commercial Fishing. Permits are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou WMAs. Drag seines (except minnow and bait seines) are prohibited except experimental bait seines

allowed on Dewey Wills WMA north of La. 28 in Diversion Canal. Commercial fishing is prohibited during regular waterfowl seasons on Grand Bay, Silver Lake and Lower Sunk Lake on Three Rivers WMA. Commercial fishing is prohibited on Salvador/Timken, Ouachita and Pointe-aux-Chenes WMAs except commercial fishing on Pointe-aux-Chenes is allowed in Cut Off Canal and Wonder Lake. No commercial fishing activity shall impede navigation and no unattended vessels or barges will be allowed. Non-compliance with permit regulations will result in revocation of commercial fishing privileges for the period the license is issued and one year thereafter. Commercial fishing is allowed on Pass-a-Loutre and Atchafalaya Delta WMAs. See Pass-a-Loutre for additional commercial fishing regulations on mullet.

h. Sport Fishing. Sport fishing, crawfishing and frogging are allowed on WMAs when in compliance with current laws and regulations except as otherwise specified under individual WMA listings.

i. Additional Department Lands. The department manages additional lands that are included in the WMA system and available for public recreation. Small tracts are located in Rapides, Vernon, Evangeline, St. Helena and other parishes. These small tracts have been acquired from the Farmers Home Administration or other sources for conservation purposes. Contact the appropriate Wildlife and Fisheries Region Office for specific information and any additional season dates.

4. Firearms.

a. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms are not allowed in or on vehicles, boats under power, motorcycles, ATVs, ATCs or in camping areas on WMAs. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas.

b. Firearms and bows and arrows are not allowed on WMAs during closed seasons except on designated shooting ranges or as permitted for trapping. Bows and broadhead arrows are not allowed on WMAs except during deer archery season, turkey season or as permitted for bowfishing.

c. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists except as specified under WMA listing.

d. Loaded firearms are not allowed near WMA check stations.

e. Centerfire rifles and handguns larger than .22 caliber rimfire, shotgun slugs or shot larger than BB lead or F steel shot cannot be carried onto any WMA except during modern firearm deer season.

f. Target shooting and other forms of practice shooting are prohibited on WMAs except as otherwise specified.

g. Discharging of firearms on or hunting from designated roads, ATV trails or their rights-of-way is prohibited during the modern firearm and muzzleloader deer season.

5. Methods of Taking Game.

a. Moving deer or hogs on a WMA with organized drivers and standers, drivers or making use of noises or noise-making devices is prohibited.

b. On Wildlife Management Areas, Federal Refuges and National Forest Lands the daily limit shall be one deer per day, six per season (all segments included) by all methods of take.

c. Baiting or hunting over bait is prohibited on all WMAs (hogs included). Unmarked hogs may be taken on some WMAs by properly licensed hunters from the beginning of archery season on the area until February 28 and only with guns/ammunition or bow and arrow legal for specified seasons in progress. Consult the specific WMA for additional information. Proper licenses and permits are required for hunting.

d. Hunters who kill deer on WMAs that require daily permits must have deer checked at the check station on same day of kill.

e. Deer hunting on WMAs is restricted to still hunting only. No WMA will be open for deer during early still hunt season unless specified in the regulation pamphlet.

f. Construction of and/or hunting from permanent tree stands or permanent blinds on WMAs is prohibited. Any permanent stand or permanent blind will be removed and destroyed.

g. On Wildlife Management Areas and Refuges, all deer stands must be removed from the area no later than two hours after the end of legal shooting hours each day. Hunting from utility poles, high tension power lines, oil and gas exploration facilities or platforms is prohibited.

h. A permanent blind is any blind using non-natural materials or having a frame which is not dismantled within two hours after the end of legal shooting time each day. Blinds with frames of wood, plastic, metal, poles, wire, mesh, webbing or other materials may be used but must be removed from the WMA within two hours after the end of legal shooting time each day. Blinds made solely of natural vegetation and not held together by nails or other metallic fasteners may be left in place but cannot be used to reserve hunting locations. All decoys must be removed from the WMA daily.

i. It is illegal to save or reserve hunting locations using permanent stands or blinds. Stands or blinds attached to trees with screws, nails, spikes, etc. are illegal.

j. Tree climbing spurs, spikes or screw-in steps are prohibited.

k. Unattended decoys will be confiscated and forfeited to the Department of Wildlife and Fisheries and disposed of by the department. This action is necessary to prevent preemption of hunting space.

l. Hunters shall not hunt, take or pursue birds or animals from moving vehicles on any WMA. No person shall take birds or animals from or by any motor boat or sail boat unless the motor has been completely shut off and/or the sail furled and its progress therefrom has ceased.

m. Spot lighting (shining) from vehicles is prohibited on all WMAs.

n. Horses and mules may be ridden on WMAs except where prohibited and except during gun seasons for deer and turkey. Riding is restricted to designated roads and trails. Hunting and trapping from horses and mules is prohibited except for quail hunting or as otherwise specified.

o. All hunters except waterfowl hunters and dove hunters (including archers and small game hunters) on WMAs must display 400 square inches of "hunter orange"

and wear a "hunter orange" cap during open gun season for deer. Quail hunters, woodcock hunters and archers (while on the ground) as well as hunters participating in special dog seasons for rabbit and squirrel are required to wear a minimum of a "hunter orange" cap. Also all persons afield during hunting seasons are encouraged to display "hunter orange".

p. Archery Season for Deer. The archery season on WMAs is the same as outside and is open for either-sex deer except as otherwise specified on individual WMAs. Archery season restricted on Atchafalaya Delta and closed on certain WMAs when special seasons for youth or handicapped hunts are in progress. Consult regulations pamphlet for specific seasons.

q. Either-sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMAs. Archers must abide by bucks only regulations and other restrictions when such seasons are in progress.

r. Muzzleloader Season for Deer. See WMA deer schedule.

6. Camping

a. Camping on WMAs, including trailers, houseboats, recreational vehicles and tents, is allowed only in designated areas and for a period not to exceed 16 consecutive days, regardless if the camp is attended or unattended. Houseboats shall not impede navigation. At the end of the 16-day period, camps must be removed from the area for at least 48 hours. Camping area use limited exclusively to outdoor recreational activities.

b. Houseboats are prohibited from overnight mooring within WMAs except on stream banks adjacent to department-owned designated camping areas. Overnight mooring of vessels that provide lodging for hire are prohibited on WMAs. On Atchafalaya Delta WMA and Pass-a-Loutre, houseboats may be moored in specially designated areas throughout the hunting season. At all other times of the year, mooring is limited to a period not to exceed 16 consecutive days. Permits are required for the mooring of houseboats on Pass-a-Loutre and Atchafalaya Delta WMAs. Permits must be obtained from the New Iberia office.

c. Discharge of human waste onto lands or waters of any WMA is strictly prohibited by state and federal law. In the event public restroom facilities are not available at a WMA, the following is required. Anyone camping on a WMA in a camper, trailer, or other unit (other than a houseboat or tent) shall have and shall utilize an operational disposal system attached to the unit. Tent campers shall have and shall utilize portable waste disposal units and shall remove all human waste from the WMA upon leaving. Houseboats moored on a WMA shall have a permit or letter of certification from the Health Unit (Department of Health and Hospitals) of the parish within which the WMA occurs verifying that it has an approved sewerage disposal system on board. Further, that system shall be utilized by occupants of the houseboats when on the WMA.

d. No refuse or garbage may be dumped from these boats.

e. Firearms may not be kept loaded or discharged in a camping area.

f. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations when provided or carried off by campers.

g. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation, including restitution for damages.

h. Swimming is prohibited within 100 yards of boat launching ramps.

7. Restricted Areas.

a. All oil and gas production facilities (wells, dumping stations and storage facilities) are off limits.

b. No unauthorized entry or hunting in restricted areas or refuges.

8. Dogs. All use of dogs on WMAs, except for bird hunting and duck hunting, is experimental as required by law. Having or using dogs on any WMA is prohibited except for nighttime experimental raccoon hunting, squirrel hunting, rabbit hunting, bird hunting, duck hunting and bird dog training when allowed. Dogs running at large are prohibited on WMAs. The owner or handler of said dogs shall be liable. Only recognizable breeds of bird dogs and retrievers are allowed for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons.

9. Vehicles.

a. An all-terrain vehicle is an off-road vehicle (not legal for highway use) with factory specifications not to exceed the following: weight 750 pounds, length 85 inches, and width 48 inches. ATV tires are restricted to those no larger than 25 x 12 with a maximum inch lug height and a maximum allowable tire pressure of 7 psi. as indicated on the tire by the manufacturer.

b. Vehicles having wheels with a wheel-tire combination having a radius of 17 inches or more from the center of the hub (measured horizontal to ground) are prohibited.

c. The testing, racing, speeding or unusual maneuvering of any type of vehicle is prohibited within wildlife management areas due to property damages resulting in high maintenance costs, disturbance of wildlife and destruction of forest reproduction.

d. Tractor or implement tires with farm tread designs R1, R2 and R4 known commonly as spade or lug grip types are prohibited on all vehicles.

e. Airboats, aircraft, personal water craft and hover craft are prohibited on all WMAs and Refuges. Personal water craft are defined as a vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and is designed to be operated by a person sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. Personal water craft allowed on designated areas of Alexander State Forest WMA.

f. No internal combustion engines allowed in certain Greentree reservoirs.

g. Driving or parking vehicles on food or cover plots and strips is prohibited.

h. Blocking the entrance to roads and trails is prohibited.

i. Motorized vehicles, including ATVs, and motorcycles, are restricted entirely to designated roads and ATV trails as indicated on WMA maps. WMA maps available at all region offices. This restriction does not apply to bicycles.

j. Use of special ATV trails for handicapped persons is restricted to special ATV handicapped permittees. Handicapped ATV permittees are restricted to handicapped ATV trails or other ATV trails only as indicated on WMA maps. Persons 60 years of age and older, with proof of age, are also allowed to use special handicapped trails and need not obtain a permit. However, these persons must abide by all rules in place for these trails. Handicapped persons should make application for a Physically Challenged Hunter Program Permit with the department.

k. Entrances to ATV trails will be marked with peach colored paint. Entrances to handicapped-only ATV trails will be marked with blue colored paint. Routes of all trails are as indicated on WMA maps. Deviation from the trails indicated on the map constitutes a violation of WMA rules and regulations.

l. Roads and trails may be closed due to poor condition, construction or wet weather.

m. ATVs, and motorcycles cannot be left overnight on WMAs except on designated camping areas. ATVs are prohibited from two hours after sunset to 3 a.m. ATVs are prohibited from March 1 through August 31 except certain trails may be open during this time period to provide access for fishing or other purpose. These trails will be marked by signs at the entrance of the trail and designated on WMA maps. Raccoon hunters may use ATVs during nighttime raccoon take seasons only.

n. Caution: Many department-maintained roadways on WMAs are unimproved and substandard. A maximum 20 mph speed limit is recommended for all land vehicles using these roads.

10. Commercial Activities. Hunting Guides/Outfitters: No person or group may act as a hunting guide, outfitter or in any other capacity for which they are paid or promised to be paid directly or indirectly by any other individual or individuals for services rendered to any other person or persons hunting on any WMA, regardless of whether such payment is for guiding, outfitting, lodging or club memberships.

11. Wildlife Management Areas Basic Season Structure. For season dates, bag limits, shooting hours, special seasons and other information consult the annual regulations pamphlet for specific details.

12. Resident Small Game (squirrel, rabbit, quail, dove, woodcock, snipe, rail and gallinule). Consult regulations pamphlet.

13. Waterfowl (ducks, geese and coots). Consult regulations pamphlet.

14. Archery. Consult regulations pamphlet.

15. Hogs. Consult regulations pamphlet.

16. Outlaw Quadrupeds and Birds. Consult regulations pamphlet.

17. Wildlife Management Areas Hunting Schedule and Regulations

a. Alexander State Forest. Vehicles restricted to paved and graveled roads. No parking on or fishing or

swimming from bridges. No open fires except in recreation areas.

b. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than employees of the Department of Wildlife and Fisheries at any time. ATVs, ATCs and motorcycles prohibited.

c. Attakapas. Free-ranging livestock prohibited.

d. Bayou Macon. All night activities prohibited except as otherwise provided. Mules are allowed for nighttime raccoon hunting.

e. Bayou Pierre

f. Bens Creek

g. Big Colewa Bayou. All nighttime activities prohibited.

h. Big Lake. Free-ranging livestock prohibited.

i. Biloxi

j. Bodcau

k. Boeuf. Free-ranging livestock prohibited.

l. Boise-Vernon

m. Buckhorn. Free-ranging livestock prohibited.

n. Camp Beauregard. Daily military clearance required for all recreational users. Registration for use of self-clearing permit required once per year. Free-ranging livestock prohibited. All game harvested must be reported. Retriever training allowed on selected portions of the WMA. Contact the region office for specific details.

o. Dewey W. Wills. Crawfish: 100 pounds per person per day.

p. Elm Hall. No ATVs allowed.

q. Fort Polk. Daily military clearance required to hunt or trap. Registration for use of self-clearing permit required once per year. Special regulations apply to ATV users.

r. Grassy Lake. Commercial Fishing: Permitted except on Smith Bay, Red River Bay and Grassy Lake proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor at Spring Bayou headquarters or Opelousas region office. Free-ranging livestock prohibited. No hunting in restricted area.

s. Jackson-Bienville. ATVs are allowed on non-public maintained gravel roads and timber management woods, roads and trails.

t. Joyce. Swamp Walk: Adhere to all WMA rules and regulations. No firearms or hunting allowed within 100 yards of walkways. Check hunting schedule and use walkway at your own risk.

u. Lake Boeuf

v. Lake Ramsay. Foot traffic only - all vehicles restricted to Parish Roads.

w. Little River

x. Loggy Bayou

y. Manchac. Crabs: No crab traps allowed. Attended lift nets are allowed.

z. Maurepas Swamp

aa. Ouachita. Waterfowl Refuge: North of La. Hwy. 15 closed to all hunting, fishing and trapping during duck season including early teal season. Crawfish: 100 pounds per person per day limit. Night crawfishing prohibited. No traps or nets left overnight. Commercial Fishing: Closed. All nighttime activities prohibited except as otherwise provided.

bb. Pass-a-Loutre. Commercial Fishing: Same as outside. Commercial mullet fishing open only in: South

Pass, Pass-a-Loutre, North Pass, Southeast Pass, Northeast Pass, Dennis Pass, Johnson Pass, Loomis Pass, Cadro Pass, Wright Pass, Viveats Pass, Cognevich Pass, Blind Bay, Redfish Bay, Garden Island Bay, Northshore Bay, East Bay (west of barrier islands) and oil and gas canals as described on the department Pass-a-Loutre WMA map. ATVs, ATCs and motorcycles prohibited on this area. Oyster harvesting is prohibited.

cc. Pearl River. All roads closed 8 p.m. to 4:30 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting will be closed when the river stage at Pearl River reaches 16.5 feet except waterfowl hunting south of Hwy. 90. No hunting in the vicinity of Nature Trail. Observe "No Hunting" signs. Rifle range open noon until 4 p.m. Friday, and 8 a.m. to 4:30 p.m. Saturday and Sunday with a fee.

dd. Peason Ridge. Daily military clearance required to hunt or trap. Registration for use of self-clearing permit required once per year. Special federal regulations apply to ATV users.

ee. Plum Creek (Formerly Georgia-Pacific). Except as otherwise provided, all nighttime activities prohibited.

ff. Pointe-aux-Chenes. Hunting until 12 noon on all game, except for dove hunting and experimental youth deer hunt as specified in regulation pamphlet. Point Farm: Gate will be open during each Saturday of the second split of dove season and all weekends during month of February. No motorized vessels allowed in the drainage ditches. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Oyster harvesting is prohibited. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Mudboats or vessels with engines larger than 25 h.p. prohibited in the Montegut and Grand Bayou marsh management units. Public is permitted to travel anytime through the WMA for access purposes only, in the waterways known as Grand Bayou, Humble Canal, Little Bayou Blue and Grand Bayou Blue. Vehicles prohibited on Point Farm properties unless authorized by the department. ATVs, ATCs and motorcycles prohibited on this area.

gg. Pomme de Terre. Commercial Fishing: permitted Monday through Friday, except closed during duck season. Commercial Fishing permits available from area supervisor, Opelousas Region Office or Spring Bayou headquarters. Sport Fishing: Same as outside except allowed after 2 p.m. only during waterfowl season. Crawfish: April 1 - July 31, recreational only, 100 lbs. per boat or group daily. Free-ranging livestock prohibited.

hh. Red River. Free-ranging livestock prohibited. Crawfishing prohibited on Wetland Restoration Areas.

ii. Russell Sage. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited except as otherwise provided.

NOTE: All season dates on Chauvin Tract (U.S. 165 North) same as outside, except still hunt only and except deer hunting restricted to archery only. Waterfowl hunting after 2 p.m. prohibited. All vehicles including ATVs prohibited.

jj. Sabine

kk. Sabine Island. Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east.

ll. Salvador/Timken. Hunting until 12 noon only for all game. All nighttime activities prohibited, including frogging. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) shall be permitted. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Boats powered by internal combustion engines having horsepower ratings above 25 hp are permitted only in oil company access canals, Louisiana Cypress Canal, the Netherlands Pond including the West Canal, Lakes - "Baie Des Chactas" and Baie du Cabanage" and the Rathborne Access ditch. Operation of the above described internal combustion engines in interior ditches is prohibited except by experimental permit to be obtained from the New Orleans Office, Fur and Refuge Division, Room 217. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited. Special Use Permits may be issued for persons interested in clearing existing ditches (trenasses). Permits will be considered on a case-by-case basis. Contact Pointe-aux-Chenes. ATVs, ATCs and motorcycles prohibited on this area.

mm. Sandy Hollow. Bird Dog Training: Consult regulation pamphlet. Wild birds only (use of pen-raised birds prohibited). Bird Dog Field Trials: Permit required from Baton Rouge region office. Horseback Riding: Organized trail rides prohibited. Horses and mules are specifically prohibited during turkey and gun season for deer except as allowed for bird dog field trials. No horses and mules on green planted areas. No motorized vehicles allowed off designated roads. Free-ranging livestock prohibited.

nn. Sherburne. Crawfishing: Recreational crawfishing only on the North and South Farm Complexes. Crawfish harvest limited to 100 pounds per vehicle or boat per day. No traps or nets left overnight. No motorized watercraft allowed on farm complex. Commercial crawfishing allowed on the remainder of the area. Permit is required. Free-ranging livestock prohibited. Retriever training allowed on selected portions of the WMA. Contact the region office for specific details. Vehicular traffic

prohibited on east Atchafalaya River levee within Sherburne WMA boundaries. Rifle and Pistol Range open daily. Skeet ranges open by appointment only, contact Hunter Education Office. No trespassing in restricted area behind ranges. Note: Atchafalaya National Wildlife Refuge, and U.S. Army Corps of Engineers land holdings adjacent to the Sherburne Wildlife Management Area will have the same rules and regulations as Sherburne WMA. No hunting or trapping in restricted area.

oo. Sicily Island Hills. Firearms and any game harvested cannot be transported through the area except during the corresponding open season on area. Free-ranging livestock prohibited.

pp. Soda Lake. No motorized vehicles allowed. All trapping and hunting prohibited except archery hunting for deer.

qq. Spring Bayou. Commercial Fishing: permitted Monday through Friday except slat traps and hoop nets permitted any day. Permits available from area supervisor or Opelousas region office. Closed until after 2 p.m. during waterfowl season. Sport Fishing: Same as outside except allowed only after 2 p.m. during waterfowl season. Crawfish: recreational only. No hunting allowed in headquarters area. Only overnight campers allowed in the improved Boggy Bayou Camping area. Rules and regulations posted at camp site. A fee is assessed for use of this camp site. Water skiing allowed only in Old River and Grand Lac.

rr. Thistlethwaite. No hunting or trapping in restricted area (see WMA map). All motorized vehicles restricted to improved roads only. All users must enter and leave through main gate only. No entry into restricted areas.

ss. Three Rivers. Free-ranging livestock prohibited in area.

tt. Tunica Hills. All vehicles restricted to parish roads. ATVs restricted to designated trails. Driving on food plots prohibited. Access to restricted areas is unauthorized. Refer to WMA map. Camping prohibited on area. North of Hwy. 66 (Angola Tract) closed to the general public March 1-September 30 except spring turkey hunting access allowed for those individuals drawn for special lottery hunt.

uu. Union. All nighttime activities prohibited except as otherwise provided.

vv. West Bay. Road Travel and Hunting Restrictions: All motorized vehicles restricted to designated roads. Refer to WMA map for location of designated roads. Hunting prohibited on roads designated for motorized vehicular travel.

ww. Wisner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:1603 (July 2002).

Thomas M. Gattle, Jr.
Chairman

0207#031

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Resident Game Hunting Season 2002-2003
(LAC 76:XIX.101 and 103)

The Wildlife and Fisheries Commission has amended its rules and regulations governing the hunting of resident game birds and game quadrupeds.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§101. General

A. The Resident Game Hunting Season, 2002-2003 regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the Regulation Pamphlet may be obtained from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002).

§103. Resident Game Birds and Animals 2002-2003

A. Shooting Hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	Nov. 16-Feb. 28	10	20
Rabbit	Oct. 5-Feb. 28	8	16
Squirrel	Oct. 5-Feb. 9	8	16
Deer	See Schedule	1 antlered and 1 antlerless (when legal on private lands)	6/season

C. Deer Hunting Schedule

Area	Archery	Muzzleloader (All Either Sex)	Still Hunt (No Dogs Allowed)	With or Without Dogs
1	Oct. 1-Jan. 31	Nov. 16-Nov. 22 Jan. 20-Jan. 26	Nov. 23-Dec. 6 Jan. 6-Jan. 19	Dec. 7-Jan. 5
2	Oct. 1-Jan. 31	Oct. 26-Nov. 1 Jan. 11-Jan. 17	Nov. 2-Dec. 6	Dec. 7-Jan. 10
3	Sept. 14-Jan. 15	Oct. 5-Oct. 11 Dec. 2-Dec. 6	Oct. 12-Dec. 1 Dec. 7-Jan. 1	
4	Oct. 1-Jan. 31	Nov. 9-Nov. 15 Jan. 11-Jan. 19	Nov. 16-Jan. 10	
5	Oct. 1-Jan. 31	Nov. 16-Nov. 22 Jan. 11-Jan. 19 Bucks Only	Nov. 23-Dec. 1	
6	Oct. 1-Jan. 31	Nov. 16-Nov. 22 Jan. 20-Jan. 26	Nov. 23-Dec. 6	Dec. 7-Jan. 19
7	Oct. 1-Jan. 31	Oct. 12-Oct. 18 Nov. 9-Nov. 15	Oct. 19-Nov. 8 Nov. 16-Dec. 1	Dec. 2-Jan. 1
8	Sept. 14-Jan. 15	Oct. 5-Oct. 11 Dec. 2-Dec. 6	Oct. 12-Dec. 1	Dec. 7-Jan. 1

D. Modern Firearm Schedule (Either Sex Seasons)

Parish	Modern Firearm Either-Sex Days
Acadia	Oct. 12-13, 19-20, 26-27, Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1
Allen	Area 2: Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8
	Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
	Area 8: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
Ascension	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
Assumption	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
Avoyelles	Area 2: Nov. 2-3, 23-24, 29-30, Dec. 1, 7-8
	Area 6: Nov. 23-24, 29-30, Dec. 1, 7-8
Beauregard	Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
	Area 8: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
Bienville	Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8
Bossier	Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8
Caddo	Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8
Calcasieu	Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
	Area 8: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
Caldwell	Nov. 2-3, 23-24, 29-30, Dec. 1, 7-8
Cameron	Oct. 12-13, 19-20, 26-27, Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1
Catahoula	Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8
	Area 2: Nov. 2-3, 23-24, 29-30, Dec. 1, 7-8
Claiborne	Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8
Concordia	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15, 21-22
DeSoto	Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8
East Baton Rouge	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
East Carroll	Nov. 16-17, 23-24, 29-30, Dec. 1, 7-8, 14-15, 21-22, East of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison parish line. Nov. 16-17, 29-30, Dec. 1 the remainder of the parish.
East Feliciana	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
Evangeline	Area 2: Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8
	Area 6: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
Franklin	Nov. 23-24, 27-30, Dec. 1
Grant	Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8
	Area 2: Nov. 2-3, 9-10, 16-17, 23-24, 29-30, Dec. 1, 7-8
Iberia	Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
	Area 6: Nov. 23-24, 27-30 Dec. 1, 7-8, 14-15
	Area 7: Oct. 19-20, Nov. 16-17, 23-24, 29-30, Dec. 1, 7-8
Iberville	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
Jackson	Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8
Jefferson	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
Jefferson Davis	Area 2: Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8 Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
Lafayette	Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-24, 29-30, Dec. 1
	Area 6: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
Lafourche	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
LaSalle	Area 1: Nov. 23-24, 29-30, Dec. 1, 7-8
	Area 2: Nov. 2-3, 23-24, 29-30, Dec. 1, 7-8
Lincoln	Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8
Livingston	Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
	Area 6: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
Madison	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15, 21-22
Morehouse	Area 2: Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8 Area 4: Nov. 16-17, 29-30, Dec. 1
Natchitoches	Nov. 2-3, 9-10, 16-17, 23-24, 29-30, Dec. 1, 7-8
Orleans	Closed to all deer hunting
Ouachita	Area 2: Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8
	Area 4: Nov. 16-17, 29-30, Dec. 1
Plaquemines	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
Pointe Coupee	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
Rapides	Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8
	Area 2: Nov. 2-3, 9-10, 16-17, 23-24, 29-30, Dec. 1, 7-8
	Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 29-30, Dec. 1, 7-8
	Area 6: Nov. 23-24, 27-30, Dec. 1, 7-8
Red River	Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8
Richland	Nov. 16-17, 29-30, Dec. 1
Sabine	Nov. 2-3, 9-10, 16-17, 23-24, 29-30, Dec. 1, 7-8
St. Bernard	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15

E. Farm Raised White-tailed Deer on Supplemented Shooting Preserves

Archery	Modern Firearm	Either Sex
Oct. 1-Jan. 31 (Either Sex)	Nov. 1-Jan. 31	Nov. 1-7 Dec. 1-7 Jan. 1-7

F. Exotics on Supplemented Shooting Preserves: Either Sex, no closed season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), amended LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002).

Thomas M. Gattle, Jr.
Chairman

0207#032

Parish	Modern Firearm Either-Sex Days
St. Charles	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
St. Helena	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
St. James	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
St. John	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
St. Landry	Area 3: Oct. 12-13, Nov. 29-30, Dec. 1, 7-8
	Area 6: Nov. 23-24, 29-30, Dec. 1, 7-8
St. Martin	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
St. Mary	Area 6: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
	Area 7: Oct. 19-20, Nov. 16-17, 23-24, 29-30, Dec. 1, 7-8
St. Tammany	Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
	Area 6: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
Tangipahoa	Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
	Area 6: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
Tensas	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15, 21-22
Terrebonne	Area 6: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
	Area 7: Oct. 19-20, Nov. 16-17, 23-24, 29-30, Dec. 1, 7-8
Union	Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8
Vermillion	Oct. 12-13, 19-20, 26-27, Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1
	Area 2: Nov. 2-3, 9-10, 16-17, 23-30, Dec. 1, 7-8
Vernon	Area 3: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
	Area 8: Oct. 19-20, 26-27, Nov. 2-3, 9-10, 23-30, Dec. 1, 7-8
	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
Washington	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
Webster	Nov. 2-10, 16-17, 23-30, Dec. 1, 7-8
West Baton Rouge	Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
West Carroll	Closed
West Feliciana	Area 1: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
	Area 6: Nov. 23-24, 27-30, Dec. 1, 7-8, 14-15
Winn	Nov. 2-3, 9-10, 16-17, 23-24, 29-30, Dec. 1, 7-8

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
C Minimum Number of Instructional School Days (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, *Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). R.S. 17:154.1 changed the minimum number of instructional days in the school year from 175 to 177, keeping the existing total school calendar of 182 days. The legislation switched two days generally used for professional development, planning or emergencies to instructional days. The changes in State Board of Elementary and Secondary Education policy are required as a result of enacted state legislation.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A.(10), (11), and (15); R.S. 17:7.(5), (7), and (11); R.S. 17:10 and 11; R.S. 17:22.(2) and (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education in LR 27:694 and 695 (May 2001), LR 27:815 (June 2001), LR 28:

Minimum Session/Instructional Day

1.009.16 Each school system shall adopt a calendar for a minimum session of 182 days, of which at least 177 days shall be scheduled to provide the required instructional time.

Refer to R.S. 17:154.1

Effective with the 2001-02 school year, the length of the school year shall consist of 182 days of which no fewer than 177 days, or the equivalent, shall be used to provide instruction to students; two days shall be for staff development; the remaining days may be used for emergencies and/or other instructional activities.

If a daily schedule must be abbreviated, the schedule must be abbreviated in such a manner to ensure that all classes are taught during the partial day.

Each school system may include in its calendar a provision for dismissal of senior students prior to the end of the school year. This provision is not to exceed 10 days of instructional time.

Each school system may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year provided that 63,720 minutes of instructional time per year are met.

General election day shall be designated by each school system as a holiday every four years for the presidential election.

1.009.18 Each instance of a school system's not meeting the minimum number of 177 days of required instructional time or the equivalent (63,720 minutes per year) shall be examined by the State Department of Education (SDE) and reported by the Department/System to the State Board of Elementary and Secondary Education (SBESE).

Operations Policies

1.010.02 Each school system shall have policies and procedures that address, but are not limited to, the following items:

- setting the number of school days, length of the school day, and other necessary guidelines for the operation of the schools;
- providing special educational and related services to exceptional students in accordance with the Individualized Education Program (IEP) for no fewer than 177 days or the equivalent during the normal 182-day school cycle.

Length of School Day Requirements

2.037.12 The minimum instructional day for a full-day kindergarten program shall be 360 minutes.

Each school system may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year provided that 63,720 minutes of instructional time per year are met.

Refer to R.S. 17:154.1.

2.037.13 For grades K-12, the minimum school day shall include 360 minutes of instructional time, exclusive of recess, lunch, and planning periods.

Each school system may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year provided that 63,720 minutes of instructional time per year are met.

Local systems have the option to make the determination regarding the length of the school day for high school seniors/

Refer to R.S. 17:154.1.

Extended School Year Program for Eligible Exceptional Students

1.119.00 School systems shall provide eligible exceptional students special educational and related services in excess of 177 school days, or the equivalent during the normal 182 day school cycle when stated in the Individualized Education Program (IEP).

Extended School Year Program for Eligible Exceptional Students

2.119.00 Extended school year programs shall be provided to eligible exceptional students when stated in the Individualized Education Program (IEP).

2.119.01 The determination concerning the need or lack of need for an educational program beyond 177 school days, or the equivalent, during the normal 182 day school cycle made by the participants in an Individualized Education Program (IEP) meeting shall be reviewed annually to ascertain any changes in the student's needs.

2.119.02 The Individualized Education Program shall include special educational and related services in excess of 177 school days or the equivalent during the normal 182 day school cycle when the multi-source data indicate that the student's exceptionally is of such severity that, without instruction in excess of 182 days, a significant loss of educational skills shall occur.

2.119.03 The type and length of the extended program shall be determined on an individual basis.

A program ranging from 182 up to 240 school days shall be available, when appropriate.

Family Impact Statement

1. Will the Proposed Rule affect the Stability of the Family? No.
2. Will the Proposed Rule affect the Authority and Rights of Parents Regarding the Education and Supervision of Their Children? No.
3. Will the Proposed Rule affect the Functioning of the Family? No.
4. Will the Proposed Rule affect Family Earnings and Family Budget? No.
5. Will the Proposed Rule affect the Behavior and Personal Responsibility of Children?
6. Is the Family or a Local Government able to perform the Function as Contained in the Proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., September 8, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Minimum Number of Instructional School Days

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No state cost will be incurred to implement the change in the number of instructional days. Additional costs relate to local education agencies only. Estimated costs are as follows: FY2001-2002: \$6,658,972, FY2002-2003: \$6,984,093 and FY2003-2004: \$7,030,251.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that there is no impact on revenue collections at the state or local level.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is an estimated cost to the local education agencies of \$6,658,972 in FY2001-2002 to convert two days from non-instructional to instructional within the teacher contract year. The cost is related to providing services to students for these two additional instructional days. The estimated cost is based on actual FY2000-2001 AFR data as provided by the 66 school systems. Selected expenditures in the areas of transportation, food service and operation and maintenance were calculated recognizing that students will have to be transported and provided meals for the two additional instructional days. In addition, increased costs may be incurred for operation of buildings and facilities on these days. An inflation factor of 2.75 percent, consistent with the growth built into the MFP formula, was applied to the selected FY2001-2002 expenditures to arrive at the FY2001-2002 cost of \$6,658,972. The same inflation factor was applied to the out-years for estimated costs of \$6,842,092 in FY2002-2003 and \$7,030,251 in FY2003-2004. This is a conservative estimate but may be higher or lower based on the unique circumstances of individual local education agencies.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that there will be no impact on competition or employment as teachers are already under contract to the school systems for a school year.

Marlyn Langley
Deputy Superintendent
Management & Finance
0207#025

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
Policy for Louisiana's Public Education
Accountability System (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State's Accountability System is an evolving system with different components. The proposed changes more clearly explain and refine the existing policy as follows: 1) State assessments administered to students with disabilities.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10), (11), (15); R.S. 17:7(5), (7), (11); R.S. 17:10, 11; R.S. 17:22(2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 27:694 (May 2001); LR 27:695 (May 2001); LR 27:815 (June 2001), LR 28

The Louisiana School and District Accountability System School Performance Scores

2.006.03 A School Performance Score (SPS) shall be calculated for each school. This score shall range from 0-100 and beyond, with a score of 100 indicating a school has reached the 10-Year Goal and a score of 150 indicating a school has reached the 20-Year Goal. The lowest score that a given school can receive for each individual indicator index and/or for the SPS as a whole is "0".

For the first accountability cycle, the baseline SPS shall be calculated using CRT and NRT scores from spring 1999 and the prior year's attendance and dropout data. The Growth SPS shall be calculated using CRT and NRT scores from spring 2001 and the prior year's attendance and dropout data.

During the fall of 2001 for K-8 schools, each school shall receive two School Performance Scores as follows:

- a Growth SPS will be calculated using 2001 English language arts/Math LEAP 21 test scores, 2001 Iowa test scores, and 2000 attendance and dropout data.
- a new Baseline SPS will be calculated using the average of the 1999-2000 and 2000-2001 English language arts/Math/Science/Social Studies LEAP 21 test scores, the average of the 1999-2000 and 2000-2001 Iowa test scores and the average of the 1999 and 2000 attendance and dropout data.

The Growth SPS shall be used to determine Growth Labels and to calculate rewards. The new Baseline shall be used to determine Performance Labels and to calculate the next cycle's Growth Target. The higher SPS (Growth or Baseline) shall be used to determine movement in Corrective Actions. (See Standard 2.006.09)

Beginning the second cycle, every year of student data shall be used as part of a school's SPS. Calculations of the SPS shall use the following:

- an average of the most recent two year's test data, and
- attendance and dropout rates from the two years prior to the last year of test data used.

For schools entering accountability after 1999, one year's data shall be used for schools formed in mid-cycle years and two year's data for other schools. Only spring administration test data shall be used in the School Performance Score.

A baseline School Performance Score shall be calculated in Spring 1999 for Grades K-8.

During the summer of 1999 for K-8 schools, each school shall receive two School Performance Scores as follows:

- a score for regular education students, including gifted, talented, and Section 504 students.
- a score including regular education students AND students with disabilities eligible to participate in the CRT and/or NRT tests.

For the purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools, the School Performance Score that includes only regular education students shall be used.

Formula for Calculating an SPS [K-6]

The SPS for a sample school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, [(66.0 * 60%) + (75.0 * 30%) + (50.0 * 10%)] = 67.1

Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
Dropout	N/A	0%	0
			SPS = 67.1

Criterion	
Referenced Tests (CRT) Index Calculations [K-8]	
A school's CRT Index score equals the sum of the student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.	
Advanced =	200 points
Proficient =	150 points
Basic =	100 points
Approaching Basic =	50 points
Unsatisfactory =	0 points

Formula for Calculating a CRT Index for a School [K-8]	
1. Calculate the total number of points by multiplying the number of students at each Performance level times the points for those respective performance levels, for all content areas.	
2. Divide by the total number of students eligible to be tested times the number of content area tests.	
3. Zero shall be the lowest CRT Index score reported for accountability calculations.	

Option I students: those students failing the 8 th grade LEAP 21 that have been	
<ul style="list-style-type: none"> • retained on the 8th grade campus • must retake all parts of the 8th Grade LEAP 21 	
If, during spring testing, a repeating fourth grade student or Option I 8 th grade student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics, English language arts, science or social studies for which he/she received a score of Unsatisfactory the previous spring, the retaining school shall receive 50 incentive points per subject in its accountability index. A student may earn a maximum of 200 incentive points for his/her school. (No incentive points will be awarded for passing parts of tests in the summer school of the year they first failed in spring testing.)	

Transition Years [K-8]										
Timelines/ School Years			LEAP-CRT Index Components							
Cycle	Baseline SPS Data	Growth SPS Data	Grade 4				Grade 8			
			ELA	Math	Science	Social Studies	ELA	Math	Science	Social Studies
			1	1998-1999	2000-2001	✓	✓			✓
2	1999-2000 & 2000-2001	2001-2002 & 2002-2003	✓	✓	✓	✓	✓	✓	✓	✓
3	2001-2002 & 2002-2003	2003-2004 & 2004-2005	✓	✓	✓	✓	✓	✓	✓	✓

Norm-Referenced Tests (NRT) Index Calculations [K-8]

For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a school's NRT Index score.

<i>NRT Goals and Equivalent Standard Scores</i>					
Composite Standard Scores Equivalent to Louisiana's 10- and 20-Year goals, by Grade Level *					
Grade					
Goals	Percentile Rank	3	5	6	7
10-Year Goal	55th	187	219	231	243
20-Year Goal	75th	199	236	251	266

NRT Formulas Relating Student Standard Scores to NRT Index [K-8]

Where the 10-year and 20-year goals are the 55th and 75th percentile ranks, respectively, and where SS = a student's standard score, then the index for that student is calculated as follows:

Grade 3:	Index 3 rd grade = (4.167 * SS) - 679.2 SS = (Index 3rd grade + 679.2)/4.167
Grade 5:	Index 5 th grade = (2.941 * SS) - 544.1 SS = (Index 5th grade + 544.1)/2.941
Grade 6:	Index 6 th grade = (2.500 * SS) - 477.5 SS = (Index 6th grade + 477.5)/2.500
Grade 7:	Index 7 th grade = (2.174*SS) - 428.3 SS = (Index 7th grade + 428.3)/2.174

- Formula for Calculating a School's NRT Index [K-8]**
1. Calculate the index for each student, using the grade-appropriate formula relating the Standard Score to NRT Index. (NOTE: For accountability purposes, a student not taking the test and not exempted will be assigned a zero NRT index.)
 2. Sum the total number of NRT Index points for all grades in the school.
 3. Divide the sum of the NRT Index points by the total number of students eligible to be tested plus the number of students not exempted.
 4. Zero shall be the lowest NRT Index score reported for School Performance Score calculations.

Attendance Index Calculations [K-8]

An Attendance Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indexes shall be calculated using the prior two years' average attendance rates as compared to the State's goals.

<i>Attendance Goals</i>		
	10-Year Goal	20-Year Goal
Grades K-8	95%	98%

Attendance Index Formula

Grades K-8
Indicator (ATT K-8) = (16.667 * ATT) - 1483.4

Where ATT is the attendance percentage, the Index Formula uses the definition of attendance established by the Louisiana Department of Education.

Lowest Attendance Index Score

Zero shall be the lowest Attendance Index score reported for accountability calculations.

Dropout Index Calculations

A Dropout Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indices shall be calculated using the prior two years' average dropout rates as compared to the State's goals.

<i>Dropout Goals</i>		
	10-Year Goal	20-Year Goal
Grades 7 & 8	4%	2%

The national definition of *dropout* shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

Dropout Index Formulas

Non-Dropout Rate (NDO) = 100 - Dropout Rate (DO)
(expressed as a percentage)

Grades 7 & 8	Dropout Index (7-8) = Indicator (DO Gr 7-8) = (25 * NDO) - 2300.0 NDO = (Indicator DO Gr 7-8 + 2300.0) /25
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Lowest Dropout Index Score

Zero shall be the lowest Dropout Index score reported for accountability calculations.

School Performance Scores for 9-12

A School Performance Score (SPS) shall be calculated for each high school. This score shall range from 0-100 and beyond, with a score of 100 indicating that a school has reached the 10-Year Goal and a score of 150 indicating that a school has reached the 20-Year Goal. The lowest score that a given high school can receive for each individual indicator index and/or for the SPS as a whole is "0."

Every year of student data shall be used as part of a high school's SPS. The school's initial SPS shall be calculated using the most recent year's NRT and CRT test data and the prior year's attendance and dropout rates. Subsequent calculations of the SPS shall use the most recent two years' test data, attendance and dropout rates from the two years prior to the last year of test data used.

Transition Years [9-12]							
To accommodate the phase-in of the grades 10 and 11 GEE 21 criterion-referenced tests, the Department shall use the following indicators:							
Timelines/School Years			Indicators Included				
Cycle	Baseline SPS Data	SPS Data	Grade 9 NRT	Grade 10 CRT	Grade 11 CRT	Attendance	Dropout
1	2000-01	2002-03 ¹	3	3		3*	3*
2	2001-02 & 2002-03 (avg.)	2003-04 & 2004-05 (avg.)	3	3	3	3*	3*
3	2003-04 & 2004-05 (avg.)	2005-06 & 2006-07 (avg.)	3	3	3	3*	3*

*Indicates use of prior year data for these indexes.
¹The SPS at the beginning of cycle 2 shall be calculated using the average of the 2002 and 2003 NRT scores, the average of the 2002 and 2003 CRT scores, and the average of the 2001 and 2002 attendance and dropout data. The SPS for the beginning of cycle 2 shall be compared to the 2001 baseline SPS for determining growth.

Transition Years [Combination Schools]

Combination Schools are schools that contain a 10th and/or 11th grade and that also contain a 4th and/or 8th grade.

To accommodate the phase-in of Social Studies and Science components of the CRT tests for Secondary Accountability Cycles, the Department shall use the following LEAP Test components when calculating the SPS for combination schools.

Cycle 1 Baseline SPS for Combination Schools	Cycle 2 SPS for Combination Schools
K-8 portion of school: 2 years averaged (2000 and 2001) of all CRT data	K-8 portion of school: 2 years averaged (2002 and 2003) of all CRT data.
9-12 portion of school: 1 year baseline data (2001) without grade 11 CRT	9-12 portion of school: 2 years averaged (2002 and 2003) of all CRT data.

Formula for Calculating an SPS - Accountability Cycle 1 (2001) for 9-12 and Combination Schools.

During the first accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is

$$SPS = (.60 * \text{Grade 10 CRT Adjusted Achievement Index}) + (.30 * \text{NRT Adjusted Achievement Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$$

All intermediate results and the final result shall be rounded to the nearest tenth.

The following is an example of how this calculation shall be made:

$$[(.60 * 66.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 69.0.$$

Indicator	Index Value	Weight	Indicator Score
CRT-Grade 10	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			69.0

Formula for Calculating an SPS - Accountability Cycle 2 (2003 and beyond) for 9-12 and Combination Schools.

During the second accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is

$$SPS = (.30 * \text{Grade 10 CRT Adjusted Achievement Index}) + (.30 * \text{Grade 11 CRT Adjusted Achievement Index}) + (.30 * \text{NRT Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$$

In this example,

$$[(.30 * 66.0) + (.30 * 60.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 67.2.$$

Indicator	Index Value	Weight	Indicator Score
CRT-Grade 10	66.0	30%	19.8
CRT-Grade 11	60.0	30%	18.0
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			67.2

Norm-Referenced Tests (NRT) Index Calculations [9-12]

For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a high school's NRT Index score.

NRT Goals and Equivalent Standard Scores for Grade 9

Goal	Percentile Rank	Grade 9 Composite Standard Score
10-Year Goal	55 th	263
20-Year Goal	75 th	287

NRT Formulas Relating Student Standard Scores to NRT Index [9-12]

If the 10-Year and 20-Year Goals are the 55th and 75th percentile ranks respectively and if the SS = a student's standard score, the index for a grade 9 student is calculated as follows:

$$\text{Index 9}^{\text{th}} \text{ grade} = (2.083 * SS) - 447.8$$

$$SS = (\text{Index 9}^{\text{th}} \text{ grade} + 447.8) / 2.083$$

Option II students: those students failing the 8th grade LEAP 21 that have been:

- retained and placed on the high school campus
- must take the 9th grade NRT and
- must retake only the part of the 8th grade LEAP 21 they originally failed (English language arts or mathematics).

If, during spring testing, a student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics or English language arts for which he/she received a score of Unsatisfactory the previous spring, the high school shall receive incentive points in its accountability index. For the 2000-2001 school year, a student may earn a maximum of 100 incentive points in his/her school's accountability index. Beginning cycle 2 (2001-2002), a student may earn a maximum of 50 incentive points for his/her school. (See High Stakes Testing Policy.)

Only with the exception of grade 8 Option II students, all Louisiana students in grades three through eleven will participate in only one of the following state assessments on an annual basis:

- LEAP 21 or,
- GEE 21 or,
- Iowa On-Level or,
- LEAP Alternate Assessment B (LAA-B) or,
- LEAP Alternate Assessment (LAA).

Criterion-Referenced Tests (CRT) Index Calculations [9-12]

A high school's CRT Index score at each grade equals the sum of the eligible student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.

Advanced	200 points
Proficient	150 points
Basic	100 points
Approaching Basic	50 points
Unsatisfactory	0 points

Formula for Calculating the NRT and CRT Adjusted Achievement Index for a High School

- Sum the number of points earned by all students. For the NRT, there shall be one score for each student: the NRT Index calculated from the student's composite standard score. For the CRT, students shall be taking two tests at each grade.
- Divide by the total number of students eligible to be tested times the number of content area tests. This calculation provides the raw achievement index for the grade.
- Multiply the raw index by the product of the non-dropout rates from the previous year for that grade and for all the previous grades. (See Examples below.) This operation means that the grade 9 NRT Index shall be multiplied by the grade 9 non-dropout rate, the grade 10 CRT Index shall be multiplied by the grade 9 and grade 10 non-dropout rates, and the grade 11 CRT Index shall be multiplied by the grade 9, grade 10 and grade 11 non-dropout rates. This operation shall yield the Adjusted Achievement Index.
- Zero shall be the lowest NRT or CRT Adjusted Achievement Index score reported for accountability calculations.

The formula for calculating the NRT and CRT Adjusted Achievement Index for a High School is:

$$\text{NRT Adjusted Achievement Index} = \text{Raw Achievement Index} * (1 - \text{DO Gr } 9 + .07)$$

$$\text{CRT Adjusted Achievement Index (Gr 10)} = \text{Raw Achievement Index} * (1 - \text{DO Gr } 9 + .07) * (1 - \text{DO Gr } 10 + .07)$$

$$\text{CRT Adjusted Achievement Index (Gr 11)} = \text{Raw Achievement Index} * (1 - \text{DO Gr } 9 + .07) * (1 - \text{DO Gr } 10 + .07) * (1 - \text{DO Gr } 11 + .07)$$

Example 1 – Grade 9:

- Before beginning grade 9, a class has 50 students; by the end of September, 45 remain in the class. The grade 9 dropout rate is $(5/50) = .100$.
- The number of points earned on the NRT is 5000.
- The raw achievement index is $5000/45 = 111.1$.
- The adjusted achievement index is $111.1 \times (1 - .100 + .07) = 107.8$.

Example 2 – Grade 10:

- Another 5 students dropout before October of grade 10. The grade 10 dropout rate is $5/45 = .111$.
- The 40 students remaining in the class earn 10,000 points on the two CRT tests. The raw achievement index is $10,000/(40 * 2) = 125.0$.
- The adjusted achievement index is $125.0 \times (1 - .100 + .07) \times (1 - .111 + .07) = 116.3$.

Attendance Index Calculations for Grades 9-12

An Attendance Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indexes shall be calculated using the prior two years' average attendance rates as compared to the State's goals.

Attendance Goals

	10-Year Goal	20-Year Goal
Grades 9-12	93%	96%

Attendance Index Formula for Grades 9-12

If the 10-Year and 20-Year Goals are 93% and 96% average attendance respectively and if the ATT = attendance percentage using the definition of attendance established by the Department of Education, the attendance index is calculated as follows:

$$\text{Indicator (ATT 9-12)} = (16.667 * \text{ATT}) - 1450.0$$

Example:

- If the average attendance percentage is 94.3%, the Attendance Index would be

$$(16.667 * 94.3) - 1450.0 = 121.7$$

Zero shall be the lowest Attendance Index score reported for accountability calculations.

Dropout Index Calculations for Grades 9-12

A Dropout Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indexes shall be calculated using the prior two years' average dropout rates as compared to the State's goals.

Dropout Goals

	10-Year Goal	20-Year Goal
Grades 9-12	7%	3%

Dropout Index Formula for Grades 9-12

$$\text{Dropout Index} = 187.5 - (12.5 \times \text{dropout rate})$$

Example:

- If the dropout rate is 4.5%, the Dropout Index would be $187.5 - (12.5 * 4.5) = 131.3$.

Zero shall be the lowest Dropout Index score reported for accountability calculations.

The national definition of *dropout* shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

Data Collection and Data Verification

2.006.04 A test score shall be entered for all eligible students within a given school. For any eligible student who does not take the test, including those who are absent, a score of "0" on the CRT and NRT shall be calculated in the school's SPS. (See Standard 2.006.18 for students participating in LEAP Alternate Assessment B [LAA-B].) To assist a school in dealing with absent students, the Louisiana

Department of Education shall provide an extended testing period for test administration. The only exception to this policy is a student who was sick during the test and re-testing periods and who has formal medical documentation for that period.

The Districts and the LDE shall evaluate any instance of Irregularity or Unusual Data in the following respects:

For Attendance and Dropout data:

- The LDE shall identify a statistically valid sample of all schools included in the accountability system. All schools included in this sample shall be audited.
- Additionally, the LDE shall audit all schools included in the accountability system that have an Irregularity or Unusual Data Result (UDR), as defined below. The LDE may have an outside team conduct the audit.
- The findings of the audit shall be reported to the SBESE, the local district and local school. If the audit findings cannot be resolved, the Superintendent shall recommend to the SBESE, who shall approve the appropriate data to be used in the calculation of the School Performance Score.

For NRT and CRT data:

- If there is evidence of an Irregularity or UDR, the LEA shall be required to investigate using a process as determined by the LDE and approved by the SBESE. The LEA shall report the results of its investigation to the State Superintendent of Education.
- If the State Superintendent of Education determines that the results of the investigation do not sufficiently explain the data, s/he shall designate a team to visit the school and conduct its own investigation.
- If the gains are validated by the visit, the school will be designated a "pacesetter" school. If the gains cannot be validated, the State Superintendent of Education may initiate further action.

Reported Irregularities:

- The LDE will determine and the SBESE shall approve a process for the public to report possible Irregularities.
 - Anonymous complaints may be investigated.
 - All signed complaints shall be investigated.
- Allocation of Rewards (See Standard 2.006.08):**
- If Irregularities are resolved and the data is corrected before rewards are provided, then the rewards will be based upon the corrected data.
 - If the Irregularities are resolved and the data is corrected after rewards have been distributed, then the school shall be required to repay any rewards for which it was ineligible as determined by the audit findings or the SBESE will subtract the reward amount from future funds to be awarded to the district or from some other source.

An Unusual Data Result (UDR) shall be defined as any CRT, NRT, attendance or dropout data which exceeds a parameter, or a range of parameters, which shall be determined by the LDE and approved by the SBESE. An Irregularity shall be defined as any data which appears to contradict results which are otherwise expected; unrealistic information; or data generated as a result of defective data collection or processing.

Growth Targets

2.006.05 Each school shall receive a Growth Target that represents the amount of progress it must make every two years to reach the State's 10- and 20-Year Goals.

In establishing each school's Growth Target, the SPS inclusive of students with disabilities shall be used as the baseline. (See Standard 2.006.18.) However, the percentage of students with disabilities varies significantly across schools and the rate of growth for such students, when compared to regular education students, may be different. Therefore, the proportion of students with disabilities eligible to participate in the CRT or NRT in each school will be a factor in determining the Growth Target for each school.

Growth Targets [K-12]

During the first ten years, the formula is the following:

$[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]$ or 5 points, *whichever is greater* where

PropSE = the number of special education students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. For purposes of this calculation, gifted, talented, and 504 students shall not be counted as special education students, but shall be included in the calculations as regular education students.

PropRE = $1 - \text{PropSE}$. *PropRE* is the proportion of students not in special education.

Prop LEP = the number of limited English proficient students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. A limited English proficient student shall be defined as an individual who has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or participate fully in our society and who 1) was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominate; or 2) is a Native American or Alaska Native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or 3) is migratory and whose native language is other than English and comes from an environment where a language other than English is dominate.

SPS = School Performance Score

N = Number of remaining accountability cycles in the 10-Year Goal period
The maximum amount of growth that a school shall be required to attain is 20 points.

The minimum amount of growth required shall be 5 points.

During the second ten years, the formula is the following:

$[\text{PropRE} * (150 - \text{SPS})/N] + [\text{PropSE} * ((150 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((150 - \text{SPS})/(N+5))]$, or 5 points, *whichever is greater*.

For cycle 1 only (2003), the Louisiana Department of Education shall calculate a growth target for 9-12 schools using the following formula

$.75 * [[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]]$.

For combination schools, the Louisiana Department of Education shall use 2 years of data (2002 and 2003) to determine if a school has met its growth target for cycle 1. Combination schools shall use the following formula to calculate a growth target:

$[[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]]$, or 5 points, *whichever is greater*.

Growth Targets for New or Reconfigured Schools

Once a baseline for the new or reconfigured school has been established, a Growth Target shall be set based on the number of cycles remaining until 2009 (K-8) and 2011 (9-12), with a maximum Growth Target of 20 points.

For example, suppose an elementary school enters the Accountability System in 2003 and establishes a baseline SPS of 50 in 2005. Normally, the school's Growth Target would be $(100-50)/2 = 25$. Under this rule, the school's Growth Target shall be 20, the maximum.

Growth Targets for Reconstituted Schools

Until 2009 (for K-8 schools) and 2011 (for 9-12 schools), the reconstituted school's Growth Target shall be equal to 100 minus the SPS divided by 5 minus the number of cycles since reconstitution.

For example, suppose a school is reconstituted in 2005 and has a SPS of 50 (based on previous year's data). The school's Growth Target for the first cycle after reconstitution shall be 10 points $[(100-50)/5]$.

Inclusion of Alternative Education Students

2.006.17 Each superintendent, in conjunction with the alternative school director, shall choose from one of two options for including alternative education students in the Louisiana Accountability System for the system's alternative education schools.

Option I The score for every alternative education student at a given alternative school shall be returned to ("sent back") and included in the home-based school's SPS. The alternative school itself shall receive a "diagnostic" SPS, not to be used for rewards or Corrective Actions, if a statistically valid number of students were enrolled in the school at the time of testing.

Students included in the GED/Skills Option program will be included in School Accountability. They will be required to take the 9th grade Iowa Test or participate in LEAP Alternate Assessment B (LAA-B) or LEAP Alternate Assessment (LAA) while enrolled. All programs will be considered Option I for alternative education purposes and student data will be sent back to the sending high schools for attendance, dropout and Iowa Test scores.

Option II The score for every alternative education student shall remain at the alternative school. The alternative school shall be given its own SPS and Growth Target, which makes the alternative school eligible for rewards and Corrective Actions.

In order to be eligible for Option II, an alternative school shall meet all of the following requirements:

- the alternative school must have its own site code and operate as a school;
- the alternative school must have a required minimum number of students in the tested grade levels; the definition of *required minimum* is stated in Section 2.006.19; and
- at least 50 percent of the total school population must have been enrolled in the school for the entire school year, October 1-May 1.

Once an option is selected for an alternative school, it shall remain in that option for at least 10 years. An appeal to the SBESE may be made to change the option status prior to the end of 10 years if a school's purpose and/or student eligibility changes.

An alternative school that chooses Option II shall receive an initial baseline SPS during summer of 1999 if the majority of its students are in grades K-8. If the majority of its students are in grades 9-12, an alternative school shall receive its baseline SPS during the summer of 2001.

All students pursuing a regular high school diploma, working in curricula developed from Louisiana Content Standards, shall be included in the State-testing program, with those scores included in a SPS. Information on these students-e.g., number receiving a GED-shall be reported in the school's report card as a sub-report.

An alternative school in Corrective Actions II may request some flexibility in obtaining assistance from either a Distinguished Educator (DE) or a team designed to address the special needs of the alternative school population, as long as the total costs for the team do not exceed that for the DE. Sample team members could include the following: social workers, psychologists, educational diagnosticians, and counselors, etc.

Inclusion of Lab Schools and Charter Schools

Such schools shall be included in the Louisiana Accountability System following the same rules that apply to traditional and/or alternative schools. The only exceptions are that Lab Schools and Type 1, 2, and 3 Charter Schools are "independent@schools and cannot be "paired@or "shared@with another school if they do not have at least one CRT and one NRT grade level, and/or if there is no "home-based@district school to which a given

student's scores can be returned if all three conditions for Option II cannot be met. Therefore, if they do not have the required grade levels and/or required minimum number of students, such schools cannot receive a SPS. Instead, the State shall publish the results from pre- and post-test student achievement results, as well as other relevant accountability data, as part of that school's report card. This policy is to be revisited during the year 2001.

For the 1999-2000 academic school year, detention and Department of Corrections facilities shall NOT receive a SPS.

Inclusion of Students with Disabilities

2.006.18 All students, including those with disabilities, shall participate in Louisiana's new testing program. The scores of all students who are eligible to take the CRT and the NRT shall be included in the calculation of the SPS. Most students with disabilities shall take the CRT and the NRT with accommodations, if required by their Individualized Education Program (IEP). A small percentage of students with very significant disabilities, limited to 1.5 percent per grade level per school district, shall participate in LEAP Alternate Assessment (LAA), as required by their IEP.

Local Education Agencies (LEAs) have the option to allow or disallow LEAP Alternate Assessment B (LAA-B). The decision to allow or disallow LAA-B must be in effect for one accountability cycle. The LEA shall determine the percentage of students who can test LAA-B, not to exceed a total of 4 percent of students at any grade level per school district. This 4 percent includes those students participating in LAA. The parent must agree with LAA-B through written parental approval, via the IEP. There shall be an appeals method in place to make decisions on exceptions when the district's 4 percent cap has been exceeded.

A student participating in LAA-B testing must test three or more grade levels below in either English/Language Arts or Mathematics. If a student does not test three or more grade levels below in at least one of these subject areas, the school will receive a "0" for that student's growth in the calculation of the school's SPS.

For students with disabilities who test in LAA-B, Iowa (ITBS) standard scores from two consecutive years shall be compared in the following manner to determine student performance in calculating the SPS:

Less than 5 standard score points of progress	0 points (Unsatisfactory)
5-9 standard score points of progress	50 points (Approaching Basic)
10-14 standard score points of progress	100 points (Basic)
15-19 standard score points of progress	150 points (Proficient)
20 + standard score points of progress	200 points (Advanced)

Appeals Process for Exceeding the Established Caps for LAA or LAA-B of Students with Disabilities

- School districts that either
- A) exceed a total of 4 percent but less than 5 percent of the total district population at any grade level participating in LAA-B and LAA, AND/OR
 - B) exceed a total of 1.5 percent but less than 2 percent of the total district population at any grade level participating in LAA.

must submit the following to the Department of Education (DOE) for review and approval:

- 1) a justification documenting the reasons for exceeding the cap(s), and
 - 2) a corrective action plan to
- increase participation in on-level assessment of the total district population at the grade level(s) where the cap was exceeded, and when applicable;
 - decrease participation in LAA to a maximum of 1.5 percent of the total district population at the grade level(s) where the cap was exceeded.
- School districts that either
- A) exceed a total of 5 percent or more of the total district population at any grade level participating in LAA-B and LAA, AND/OR
 - B) exceed a total of 2 percent of the total district population at any grade level participating in LAA
- must submit the following to the Department of Education for review and approval:
- 1) a justification documenting the reasons for exceeding the cap(s), and
 - 2) a corrective action plan to
- increase participation in on-level assessment of the total district population at the grade level(s) where the cap was exceeded, and when applicable;
 - decrease participation in LAA to a maximum of 1.5 percent of the total district population at the grade level(s) where the cap was exceeded.

The school district will receive an onsite investigation by a Department of Education team; and following the investigation, the DOE team will meet with the school district's superintendent and appropriate staff to address the findings and revise, if necessary, the submitted corrective action plan.

III. The DOE will report to the SBESE on each appeal.

Interested persons may submit written comments until 4:30 p.m., September 8, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Policy for Louisiana's Public Education Accountability System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state governmental units. The proposed changes more clearly explain and refine the existing policy as it pertains to the state assessments administered to students with disabilities.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0207#026

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Reasonable and Proper Care for and Control over Textbooks and Other Materials of Instruction (LAC 28:XXXIII.523)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 1794, *State Textbook Adoption Policy and Procedure Manual*, referenced in LAC 28:XXXIII. Bulletin 1794 is being revised to reflect legislative changes. Act 315 of the 2001 Regular Session of the Louisiana Legislature requires the principal of every school to transfer student educational records, within 10 business days, to educational facilities operated within correctional or health facilities, upon receipt of a written request. In addition, the authority for schools to withhold grades of students who have fines or fees related to lost or damaged books has been removed.

Title 28

EDUCATION

Part XXXIII. Bulletin 1794C State Textbook Adoption Policy and Procedure Manual

Chapter 5. Local School System Responsibilities

§523. Reasonable and Proper Care for and Control over Textbooks and Other Materials of Instruction

NOTE: This policy shall also be applicable to instructional materials, supplies, and equipment. (See also *Bulletin 741*)

A. The SDE recommends that Student Handbooks, issued to students at the beginning of each school year, include a policy statement that stipulates responsibility for proper use and control over textbooks and other materials of instruction that are on loan to the students during the school year. Signature lines should be included for both students' and parent/legal guardians' acknowledgement of responsibility. In addition, a contact name and phone number should be provided. Payment plans for restitution by parents/guardians may be specified.

B. Each school system, as part of its responsibility to ensure proper care and control of textbooks, shall adopt procedures that hold students and parents/guardians responsible for exercising reasonable and proper care of textbooks and materials of instruction.

C. Such procedures may provide that parents and/or legal guardians may be required to compensate the school district for lost, destroyed, or unnecessarily damaged books and materials, and for any books which are not returned to the proper schools at the end of each school year or upon withdrawal of their dependent child. Under no circumstances may a student of school age be held financially responsible for fees associated with textbook replacement.

D. Compensation by parents or guardians may be in the form of monetary fees or community/school service activities, as determined by the school governing authority. In the case of monetary fees, fines shall be limited to no more than the replacement cost of the textbook or material, but may, at the discretion of the governing authority, be adjusted according to the physical condition of the lost or destroyed textbook. A school system may waive or reduce

the payment required if the student is from a family of low income and may provide for a method of payment other than lump-sum payment.

E. In lieu of monetary payments, both school systems and parents/guardians may elect to have students perform school/community service activities, provided that such are arranged so as not to conflict with school instructional time; these activities shall be properly supervised by school staff and shall be suitable to the age of the child.

F. Under no circumstances may a school or school district refuse the parent/guardian the right to inspect relevant grades or records pertaining to the child; nor may the school or school district refuse to transfer promptly the records of any child withdrawing or transferring from the school, per requirements of the Federal Family Educational Rights and Privacy Act. Transfer of records shall not exceed 45 days from the date of request, except for requests from any educational facility operated within any correctional or health facility. The transfer of such records shall not exceed 10 business days from the date of receipt of the written request.

G. Under no circumstances may a school or school district deny a student promotional opportunities, as a result of his/her failure to compensate the school district for lost or damaged textbooks. Students shall not be denied continual enrollment each grading period nor re-entry in succeeding school years as a result of lost or damaged books.

H. Students shall not be denied the use of a textbook during school hours each day. Each school system shall annually inform parents and/or legal guardians of the locally adopted procedures pursuant to state law and regulation, regarding reasonable and proper control of textbooks (See also *Bulletin 741, Louisiana Handbook for School Administrators* (Revised, 1997) for policy regarding this legislation).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1001 (May 2000), LR 28:

Interested persons may submit written comments until 4:30 p.m., September 8, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Reasonable and Proper Care for and Control over Textbooks and Other Materials of Instruction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation cost for this rule change is \$1,350.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change should have no measurable effect on state or local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no anticipated cost or economic benefit to any non-governmental group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0207#024

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Corrections to Organizational Citations
(LAC 33:V.4201, 4205, 4211, and 4241)(HW082)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.4201, 4205, 4211, and 4241 (Log #HW082).

This proposed rule makes a minor correction for clarification and corrects errors in the use of "administrative authority" by replacing the term with the correct office and division for submittals or notification requirements. This action is being taken to encourage and assist the regulated entities in the proper submittal of information and notification to the department. The basis and rationale for this rule are to provide consistency in the regulations with regards to information submittal and notification to the department.

This proposed rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality

Chapter 42. Conditional Exemption for Low-Level Mixed Waste Storage and Disposal

§4201. What Definitions Apply to this Chapter?

A. This Chapter uses the following special definitions.

* * *

We or *Us*Administrative authority, as defined in LAC 33:V.109. Within this Chapter, the administrative authority is the Office of Environmental Services, Permits Division, unless otherwise indicated.

* * *

AUTHORITY NOTE: Promulgated in accordance with RS. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1004 (May 2002), amended LR 28:

§4205. What Wastes are Eligible for the Storage and Treatment Conditional Exemption?

A. LLMW, defined in LAC 33:V.4201, is eligible for this conditional exemption if it is generated and managed by you under a single department, NRC, or other NRC agreement state license. (Mixed waste generated at a facility with a different license number and shipped to your facility for storage or treatment requires a permit and is ineligible for this exemption. In addition, NARM waste is ineligible for this exemption.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1005 (May 2002), amended LR 28:

§4211. How Could You Lose the Conditional Exemption for Your LLMW and What Action Must You Take?

A. - A.1.c. ...

2. If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify the Office of Environmental Compliance by telephone or by e-mail within 24 hours after learning of the discharge. Notification should be made to the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at www.deq.state.la.us/surveillance and followed up with a written notification within five days. Failures that may endanger human health or the environment include, but are not limited to, discharge of a CERCLA reportable quantity or other leaking or exploding tanks or containers or detection of radionuclides above background or hazardous constituents in the leachate collection system of a storage area. If the failure may endanger human health or the environment, you must follow the provisions of your emergency plan.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1006 (May 2002), amended LR 28:

§4241. How Could You Lose the Transportation and Disposal Conditional Exemption for Your Waste and What Actions Must You Take?

A. Any waste will automatically lose the transportation and disposal exemption if you fail to manage it in accordance with all of the conditions specified in LAC 33:V.4225.

1. When you fail to meet any of the conditions specified in LAC 33:V.4225 for any of your wastes, you must report to the Office of Environmental Compliance, Surveillance Division, in writing by certified delivery, within 30 days of learning of the failure. Your report must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. This report must include:

a. - c. ...

2. If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify the Office of Environmental Compliance by telephone or by e-mail within 24 hours after learning of the discharge. Notification should be made to the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at www.deq.state.la.us/surveillance then followed up with a written notification within five days.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1008 (May 2002), amended LR 28:

A public hearing will be held on August 27, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by HW082. Such comments must be received no later than September 3, 2002, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389 or by email to patsyd@deq.state.la.us. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of HW082.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Corrections to Organizational Citations**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No costs or savings are anticipated as a result of the implementation of the proposed action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The regulated community will benefit from this rule by having a more direct contact to whom to submit their required information in the department. This may result in an indirect decrease in cost and increase in economic benefit to the regulated community.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no known impacts of the proposed action on competition and employment in the public and private sectors.

James H. Brent
Assistant Secretary
0207#028

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Used Motor Vehicle and Parts Commission**

Change in Time of Board Meeting, Public Comments at Board Meetings, Educational Seminars
(LAC 46:V.2701, 4401, and 4403)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Office of the Governor, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission proposes to adopt rules and regulations governing public comments at Board Meetings in accordance with R.S. 47:5.D and educational seminars in accordance with R.S. 32:774.B.(3)(b)(i)-(iv). The Used Motor Vehicle Parts Commission proposes to amend the time of the regularly scheduled Board Meetings as indicated in R.S. 32:772.E.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part V. Automotive Industry
Subpart 2. Used Motor Vehicle and Parts Commission
Chapter 27. The Used Motor Vehicle and Parts
Commission**

§2701. Meetings of the Commission

A. The Commission shall meet at its office in Baton Rouge, LA on the third Tuesday in each month to transact such business as may properly come before it. The regular meeting will convene at the hour of 9 a.m. and shall continue at the pleasure of those present. Any change of monthly meetings will be in accordance with the Open Meeting Law R.S. 42.5.

B. ...

C. A public comment period shall be held at or near the beginning of each board meeting. Persons desiring to present public comments shall notify the board chairman no later than 48 hours prior to the date of the regular meeting and 72 hours prior to the date of a special meeting. All written requests to have an item or items placed on the agenda must indicate, in detail, what items they wish to discuss. Public discussions are limited only to items on the agenda. There will be a maximum of 30 minutes for all public comments to be heard and each person will be limited to three minutes.

Additional time can be allowed by the chairman as he deems reasonable. Each person making public comments shall identify himself and the group, organization or company he represents, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.E and R.S. 42:5.D.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989), LR 18:1116 (October 1992), LR 24:1682 (September 1998), LR 25:1792 (October 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:

Chapter 44. Educational Seminar

§4401. Required Attendance

A. On and after January 1, 2002, every applicant for a used motor vehicle dealer's license that has not been licensed prior to January 1, 2003, must attend a four-hour educational seminar approved and conducted by the Used Motor Vehicle and Parts Commission. Existing dealers will be grandfathered in and not mandatorily required to attend said seminar.

1. The seminar will be conducted by employees of the Used Motor Vehicle and Parts Commission and will be held at the office of the commission located at 3132 Valley Creek Drive, Baton Rouge, Louisiana, 70808.

2. The seminar will be held once a month on the first Monday of each month beginning at 9 a.m. and ending at 1 p.m.

3. As a courtesy to existing dealers, educational seminars will be conducted throughout the state once a year.

4. In addition to new dealers being required to attend the four hour seminar, any existing dealers who are found guilty of violations of commission laws and/or rules and regulations will be required to attend.

5. There will be no charge for attendance to the educational seminar.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B.(3)(b)(i)-(iv).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:

§4403. Certification

A. Upon applying for a 2003 used motor vehicle dealer's license, the applicant must attach a copy of the certificate of completion which documents that the dealership's general manager, office manager, title clerk or other responsible representative of the dealership has attended the four-hour educational seminar. If the applicant has not completed the educational seminar, he must provide evidence that he has registered to attend such seminar within 60 days after issuance of the license.

B. The certificate shall list the participant's name and title, name and address of the used motor vehicle dealer, date of completion and signature of instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B.(3)(b)(i)-(iv).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:

§4403. Educational Program

A. The educational seminar will consist of information pertaining to the Used Motor Vehicle and Parts Commission,

Department of Revenue and Taxation, Office of Motor Vehicles, Wildlife and Fisheries, Motor Vehicle Commission and Attorney General's Office. The items to be reviewed are as follows:

1. LUMVPCbackground of the agency, laws, rules and regulations, license requirements, area of responsibility, complaint procedures, hearing procedures and non-delivery of titles;

2. LMVCCfinance licenses;

3. RevenueCsubmission of monthly sales reports and collection of taxes;

4. Office of Motor VehiclesCnon-delivery of titles, certificates of title and completion of titles by dealers;

5. Wildlife and FisheriesCregistration of marine products;

6. Office of Attorney GeneralCcivil and criminal matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B.(3)(b)(i)-(iv).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:

Interested persons may submit written comments no later than 4:30 p.m. on July 20, 2002 to John M. Torrance, Executive Director, 3132 Valley Creek Drive, Baton Rouge, LA, 70808, (225) 925-3870.

John M. Torrance
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Change in Time of Board Meeting,
Public Comments at Board Meetings, Educational
Seminars**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no implementation costs. The materials that will be distributed at the seminars are the same materials initially given to new dealers at the time of inspection of their dealerships. Field employees will be teaching the seminars which will be held at the commission office.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenues will not be affected by these proposed rules.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There will not be any costs or economic benefits to directly affected persons or non-governmental groups. Licensees will not be charged a fee to attend the educational seminars.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed rules on the educational seminars will have a positive effect on the used car dealers with regard to competition and employment. By adopting what is learned in these educational seminars, they can better serve the public and insure customers returning for future purchases and/or referrals to new potential customers.

John M. Torrance
Executive Director
0207#027

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Dispensing of Medications
(LAC 46:XLV.6507 and 6513)

Notice is hereby given, in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by the Louisiana Medical Practice Act, R.S. 37:1261-1292 and R.S. 37:1201, intends to amend Title 46:XLV, Subpart 3, Chapter 65, §§6507 and 6513 of its existing medication dispensing rules governing the effect of providing false or misleading information on an application and the eligibility requirements prerequisite to registration as a dispensing physician. The proposed rules have no known impact on family formation, stability or autonomy as described in R.S. 49:972.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**PART XLV. Medical Profession
Subpart 3. Practice**

**Chapter 65. Dispensation of Medications
Subchapter B. Prohibitions and Sanctions
§6507. Action Against Medical License**

A. Violation of the prohibitions set forth in §6505, or providing false or misleading statements in connection with any application required by this Subchapter, shall be deemed to constitute just cause for the suspension, revocation, refusal to issue, or the imposition of probationary or other restrictions on any license or permit to practice medicine in the state of Louisiana held or applied for by a physician culpable of such violation, or for other administrative action as the board may in its discretion determine to be necessary or appropriate, under R.S. 37:1285.A.(3), R.S.37:1285.A.(4), R.S. 37:1285.A.(6), and R.S. 1285.A.(30), respectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 13:570 (October 1987), amended LR 25:1248 (July 1999), LR 28:

Subchapter C. Registration

§6513. Eligibility for Registration as a Dispensing Physician

A. To be eligible for registration as a dispensing physician, a physician shall, as of the date of the application:

1. possess a current, unrestricted license to practice medicine duly issued by the board;
2. have been in the active practice of medicine for not less than three years following the date on which the physician was awarded a doctor of medicine or doctor of osteopathy degree;
3. not currently be enrolled in a medical residency or other post graduate medical training program; and
4. possess a current, unrestricted license to prescribe, dispense, and administer controlled substances duly issued

by the Office of Narcotics and Dangerous Drugs, Department of Health and Human Resources, state of Louisiana, and be currently registered to prescribe, dispense, and administer controlled substances, without restriction, with the Drug Enforcement Administration, United States Department of Justice.

B. - B.6. ...

7. has been denied, had suspended, revoked, restricted, or relinquished, staff or clinical privileges at any hospital or other health care institution while under investigation for, or as a result of, the physician's competency or conduct;

B.8. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 13:570 (October 1987), amended LR 25:1249 (July 1999), LR 28:

Interested persons may submit written date, views, arguments, information or comments on the proposed Rule amendments until 4 p.m., August 21, 2002, to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, P.O. Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, LA 70130).

John B. Bobear, M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Dispensing of Medications

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than rule publication costs, estimated to be \$420 in FY 2002, it is not anticipated that implementation of the proposed Rule amendments will result in any costs to the board or any other state or local governmental unit. The board does not anticipate that adoption of the proposed rule amendments will result in either an increase or reduction in workload or any additional paperwork.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed rules amendments will have a material effect on the board's revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is not anticipated that the proposed rule amendments will have a material effect on costs, paperwork or workload of physicians who seek to become, or who may continue to be registered as, dispensing physicians.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendments will have a material impact on competition or employment in either the public or private sector.

John B. Bobear, M.D.
Executive Director
0207#036

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Adult Day Health Care Services
Prospective Payment System
Reimbursement Methodology
(LAC 50:II.10909 and 10939)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Human Resources, Office of Family Security adopted a Rule establishing the Standards for Payment for the Adult Day Health Care Program (*Louisiana Register*, Volume 11, Number 6). The June 20, 1985 Rule was later amended to revise the Standards for Payment in order to improve the operations of the program (*Louisiana Register*, Volume 13, Number 3). The March 20, 1987 Rule was subsequently amended by the Department of Health and Hospitals, Bureau of Health Services Financing to establish provider protocol for the medical certification process and to codify the Rule into the Louisiana Administrative Code (*Louisiana Register*, Volume 23, Number 9). A Rule was later adopted to amend licensure requirements contained in the September 1997 Rule and to include the acronym for the Division of Home and Community Based Services Waiver (DHCBSW) (*Louisiana Register*, Volume 25, Number 6). The Bureau now proposes to amend the reimbursement methodology for Adult Day Health Care services from a facility specific rate based on historical cost to a statewide rate based on set percentages over the median by cost category.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology for Adult Day Health Care services from a facility specific rate based on historical cost to a statewide rate based on set percentages over the median by cost category and establishes a prospective payment system effective January 1, 2003.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part II. Medical Assistance Program

Subpart 3. Standards for Payment

Chapter 109. Standards for PaymentC Adult Day Health Care Services

§10909. Provider Agreement

A. - E.23. ...

F. DHH agrees to make payment to the provider on behalf of eligible recipients if the provider is enrolled in the Medicaid Program as an ADHC center.

G.1. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:623 (June 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 13:181 (March 1987), LR 23:1150 (September 1997), LR 28:

§10939. Prospective Payment System

A. General Provisions

1. Development. Adult Day Health Care (ADHC) providers shall be reimbursed a per diem rate for services provided under a prospective payment methodology. The system shall be designed in a manner that recognizes and reflects the cost of direct care services provided. The reimbursement methodology is designed to improve the quality of care for all adult day health care recipients by ensuring that direct care services are provided at an acceptable level while fairly reimbursing the providers.

2. The prospective payment methodology establishes statewide rates for services provided with components for direct care costs, care related costs, administrative and operating costs, and property costs.

3. Cost Centers

a. Direct Care Costs. This component reimburses for in-house and contractual direct care staffing and fringe benefits and direct care supplies.

b. Care Related Costs. This component reimburses for in-house and contractual salaries and fringe benefits for activity and social services staff, raw food costs and care related supplies for activities and social services.

c. Administrative and Operating Costs. This component reimburses for in-house or contractual salaries and related benefits for administrative, dietary, housekeeping and maintenance staff. Also included are:

i. utilities;

ii. accounting;

iii. dietary;

iv. housekeeping and maintenance supplies; and

v. all other administrative and operating type expenditures.

d. Property. This component reimburses for depreciation, interest on capital assets, lease expenses, property taxes and other expenses related to capital assets.

4. Rate Setting

a. Direct Care Costs. A statewide base rate for direct care is computed at 115 percent of the median facility per diem direct care costs submitted on all full year cost reports except those for which an audit disclaimer has been issued. Direct care costs are trended forward using the Consumer Price Index (CPI)C Medical Services.

b. Care Related Costs. A statewide base rate for care related costs is computed at 105 percent of the median facility per diem care related costs submitted on all full year cost reports except those for which an audit disclaimer has been issued. Care related costs are trended forward using the CPIC All Items.

c. Administrative and Operating Costs (OAC). A statewide base rate for administrative and operating costs is computed at 105 percent of the median facility per diem administrative and operating costs submitted on all acceptable cost reports except for those for which an audit

disclaimer has been issued and are trended forward using the CPICAll Items.

d. Property. The property rate is computed at the median of property costs submitted on all acceptable full year cost reports. Inflation will not be added to property costs.

e. All trending shall be from the mid-point of the year preceding the cost report year to the midpoint of the year preceding the rate year.

5. Total Per Diem Rate. The per diem rate is the sum of the rate components.

6. Cost Settlement. The direct care cost component shall be subject to cost settlement. Should an ADHC facility's cost report reveal that the provider did not expend an amount equal to 90 percent of the direct care payment for the year for direct care services, the Medicaid program will recover the difference between 90 percent of the direct care payment and the actual direct care amount expended.

B. Cost Reporting

1. Providers of adult day health care services are required to file annual cost reports of all reasonable and allowable costs. The annual cost reports are the basis for determining reimbursement rates. A copy of all reports and statistical data must be retained by the facility for no less than five years following the date reports are submitted to the Bureau. A chart of accounts and an accounting system on the accrual basis or converted at year end are required in the cost reporting preparation process. The Bureau or its designee will perform desk reviews of the cost reports. In addition to the desk review, a representative number of the facilities shall be subject to a full-scope, annual on-site audit. All ADHC cost reports shall be filed with a fiscal year from July 1 through June 30.

2. The cost reporting forms and instructions developed by the Bureau must be used by all ADHC facilities participating in the Louisiana Medicaid Program. Hospital based and other provider based ADHC which use Medicare forms for step down in completing their ADHC Medicaid cost reports must submit copies of the applicable Medicare cost report forms. All amounts must be rounded to the nearest dollar and must foot and cross foot. Only per diem cost amounts will not be rounded. Cost reports submitted that have not been rounded in accordance with this policy will be returned and will not be considered as received until they are resubmitted.

3. Annual Reporting. Cost reports are to be filed on or before the last day of September following the close of the reporting period. Should the due date fall on a Saturday, Sunday, or an official state or federal holiday, the due date shall be the following business day. The cost report forms and schedules must be filed in duplicate together with two copies of the following documents:

a. a working trial balance that includes the appropriate cost report line numbers to which each account can be traced. This may be done by writing the cost report category and line numbers by each ending balance or by running a trial balance in cost report category and line number order that totals the account;

b. a depreciation schedule. If the facility has different book and Medicaid depreciation schedules, copies of both depreciation schedules must be submitted. If the facility has home office costs, copies of the home office

depreciation schedules must also be submitted. All hospital based facilities must submit two copies of a depreciation schedule that clearly shows and totals assets that are hospital only, ADHC only and shared assets;

c. an amortization schedule(s), if applicable;

d. a schedule of adjustment and reclassification entries;

e. a narrative description of purchased management services or a copy of contracts for managed services, if applicable;

f. a narrative description or a copy of the contracts for management services provided by a related party or home office, a description of the basis used to allocate the costs to providers of the group and to nonprovider activities and copies of the cost allocation worksheet, if applicable. Costs included that are for related management/home office costs must also be reported on a separate cost report that includes an allocation schedule;

g. all allocation worksheets must be submitted by hospital-based facilities. The Medicare worksheets that must be attached by facilities using the Medicare forms for allocation are:

i. A;

ii. A-6;

iii. A-7, Parts I, II, and III;

iv. A-8;

v. A-8-1;

vi. B, Part 1; and

vii. B-1.

4. Each copy of the cost report must have the original signatures of an officer or facility administrator on the certification. The cost report and related documents must be submitted to the address indicated on the cost report instruction form. In order to avoid a penalty for delinquency, cost reports must be postmarked on or before the due date.

5. When it is determined upon initial review for completeness that an incomplete or improperly completed cost report has been submitted, the provider will be notified. The provider will be allowed a specified amount of time to submit the requested information without incurring the penalty for a delinquent cost report. For cost reports that are submitted by the due date, 10 working days from the date of the providers receipt of the request for additional information will be allowed for the submission of the additional information. For cost reports that are submitted after the due date, five working days from the date of the providers receipt of the request for additional information will be allowed for the submission of the additional information. An exception exists in the event that the due date comes after the specified number of days for submission of the requested information. In these cases, the provider will be allowed to submit the additional requested information on or before the due date of the cost report. If requested additional information has not been submitted by the specified date, a second request for the information will be made. Requested information that is not received after the second request may not be subsequently submitted and shall not be considered for reimbursement purposes. An appeal of the disallowance of the costs associated with the requested information may not be made. Allowable costs will be adjusted to disallow any expenses or cost findings that are not submitted.

6. Accounting Basis. The cost report must be prepared on the accrual basis of accounting. If a facility is on a cash basis, it will be necessary to convert from a cash basis to an accrual basis for cost reporting purposes. Particular attention must be given to an accurate accrual of all costs at the year end for the equitable distribution of costs to the applicable period. Care must be given to the proper allocation of costs for contracts to the period covered by such contracts. Amounts earned although not actually received and amounts owed to creditors but not paid must be included in the reporting period.

7. Supporting Information. Providers are required to maintain adequate financial records and statistical data for proper determination of reimbursable costs. Financial and statistical records must be maintained by the facility for five years from the date the cost report is submitted to the Bureau. Cost information must be current, accurate and in sufficient detail to support amounts reported in the cost report. This includes all ledgers, journals, records, and original evidences of cost (canceled checks, purchase orders, invoices, vouchers, inventories, time cards, payrolls, bases for apportioning costs, etc.) that pertain to the reported costs. Census data reported on the cost report must be supportable by daily census records. Such information must be adequate and available for auditing.

8. Nonacceptable Descriptions. Miscellaneous, Other and Various, without further detailed explanation, are not acceptable descriptions for cost reporting purposes. If any of these are used as descriptions in the cost report, a request for information will not be made and the related line item expense will be automatically disallowed. The provider will not be allowed to submit the proper detail of the expense at a later date, and an appeal of the disallowance of the costs may not be made. (See §10939.B.10.c.xliii)

9. Exceptions. Limited exceptions to the cost report requirements will be considered on an individual provider basis upon written request from the provider to the Bureau of Health Services Financing, Rate and Audit Review Section. If an exception is allowed, providers must attach a statement describing fully the nature of the exception for which prior written permission was requested and granted. Exceptions which may be allowed with written approval are as follows:

a. For the initial reporting period only, the provider may allocate costs to the various cost centers on a reasonable basis if the required itemized cost breakdown is not available.

b. If the center has been purchased, leased or has effected major changes in the accounting system as an ongoing concern within the reporting period, a partial year cost report may be filed in lieu of the required 12-month report.

c. If the center experiences unavoidable difficulties in preparing the cost report by the prescribed due date, an extension may be requested prior to the due date. Requests for exception must contain a full statement of the cause of the difficulties that rendered timely preparation of the cost report impossible.

10. Cost Categories Included in the Cost Report

a. Direct Care (DC) Costs

i. Salaries, AidesCgross salaries of certified nurse aides and nurse aides in training.

ii. Salaries, LPNsCgross salaries of non-supervisory licensed practical nurses and graduate practical nurses.

iii. Salaries, RNsCgross salaries of non-supervisory registered nurses and graduate nurses (excluding director of nursing and resident assessment instrument coordinator).

iv. Salaries, Social ServicesCgross salaries of non-supervisory licensed social services personnel providing medically needed social services to attain or maintain the highest practicable physical, mental, or psychosocial well being of the residents.

v. Salaries, ActivitiesCgross salaries of non-supervisory activities/recreational personnel providing an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interest and the physical, mental, and psychosocial well-being of the residents.

vi. Payroll TaxesCcost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for direct care employees.

vii. Group Insurance, DCCcost of employer's contribution to employee health, life, accident and disability insurance for direct care employees.

viii. Pensions, DCCcost of employer's contribution to employee pensions for direct care employees.

ix. Uniform Allowance, DCCemployer's cost of uniform allowance and/or uniforms for direct care employees.

x. Worker's Comp, DCCcost of worker's compensation insurance for direct care employees.

xi. Contract, AidesCcost of aides through contract that are not facility employees.

xii. Contract, LPNsCcost of LPNs and graduate practical nurses hired through contract that are not facility employees.

xiii. Contract, RNsCcost of RNs and graduate nurses hired through contract that are not facility employees.

xiv. Drugs, Over-the-Counter and LegendCcost of over-the-counter and legend drugs provided by the facility to its residents. This is for drugs not covered by Medicaid.

xv. Medical SuppliesCcost of patient-specific items of medical supplies such as catheters, syringes and sterile dressings.

xvi. Medical Waste DisposalCcost of medical waste disposal including storage containers and disposal costs.

xvii. Other Supplies, DCCcost of items used in the direct care of residents which are not patient-specific such as prep supplies, alcohol pads, betadine solution in bulk, tongue depressors, cotton balls, thermometers, and blood pressure cuffs.

xviii. Allocated Costs, Hospital BasedCthe amount of costs that have been allocated through the step-down process from a hospital or state institution as direct care costs when those costs include allocated overhead.

xix. Total Direct Care CostsCsum of the above line items.

b. Care Related Costs

i. SalariesCgross salaries for care related supervisory staff including supervisors or directors over nursing, social service and activities/recreation.

ii. Salaries, Dietary **C**gross salaries of kitchen personnel including dietary supervisors, cooks, helpers and dishwashers.

iii. Payroll Taxes **C**cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for care related employees.

iv. Group Insurance, **C**cost of employer's contribution to employee health, life, accident and disability insurance for care related employees.

v. Pensions, **C**cost of employer's contribution to employee pensions for care related employees.

vi. Uniform Allowance, **C**employer's cost of uniform allowance and/or uniforms for care related employees.

vii. Worker's Comp, **C**cost of worker's compensation insurance for care related employees.

viii. Barber and Beauty Expense **C**the cost of barber and beauty services provided to patients for which no charges are made.

ix. Consultant Fees, Activities **C**fees paid to activities personnel, not on the facility's payroll, for providing advisory and educational services to the facility.

x. Consultant Fees, Nursing **C**fees paid to nursing personnel, not on the facility's payroll, for providing advisory and educational services to the facility.

xi. Consultant Fees, Pharmacy **C**fees paid to a registered pharmacist, not on the facility's payroll, for providing advisory and educational services to the facility.

xii. Consultant Fees, Social Worker **C**fees paid to a social worker, not on the facility's payroll, for providing advisory and educational services to the facility.

xiii. Consultant Fees, Therapists **C**fees paid to a licensed therapist, not on the facility's payroll, for providing advisory and educational services to the facility.

xiv. Food, Raw **C**cost of food products used to provide meals and snacks to residents. Hospital based facilities must allocate food based on the number of meals served.

xv. Food, Supplements **C**cost of food products given in addition to normal meals and snacks under a doctor's orders. Hospital based facilities must allocate food-supplements based on the number of meals served.

xvi. Supplies, **C**the costs of supplies used for rendering care related services to the patients of the facility. All personal care related items such as shampoo and soap administered by all staff must be included on this line.

xvii. Allocated Costs, Hospital Based **C**the amount of costs that have been allocated through the step-down process from a hospital or state institution as care related costs when those costs include allocated overhead.

xviii. Total Care Related Costs **C**the sum of the care related cost line items.

c. Administrative and Operating Costs (AOC)

i. Salaries, Administrator **C**gross salary of administrators excluding owners. Hospital based facilities must attach a schedule of the administrator's salary before allocation, the allocation method, and the amount allocated to the nursing facility.

ii. Salaries, Assistant Administrator **C**gross salary of assistant administrators excluding owners.

iii. Salaries, Housekeeping **C**gross salaries of housekeeping personnel including housekeeping supervisors, maids and janitors.

iv. Salaries, Laundry **C**gross salaries of laundry personnel.

v. Salaries, Maintenance **C**gross salaries of personnel involved in operating and maintaining the physical plant, including maintenance personnel or plant engineers.

vi. Salaries, Drivers **C**gross salaries of personnel involved in transporting clients to and from the facility.

vii. Salaries, Other Administrative **C**gross salaries of other administrative personnel including bookkeepers, receptionists, administrative assistants and other office and clerical personnel.

viii. Salaries, Owner or Owner/Administrator **C**gross salaries of all owners of the facility that are paid through the facility.

ix. Payroll Taxes **C**cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for administrative and operating employees.

x. Group Insurance, **A** **O** **C**cost of employer's contribution to employee health, life, accident and disability insurance for administrative and operating employees.

xi. Pensions, **A** **O** **C**cost of employer's contribution to employee pensions for administration and operating employees.

xii. Uniform Allowance, **A** **O** **C**employer's cost of uniform allowance and/or uniforms for administration and operating employees.

xiii. Worker's Compensation, **A** **O** **C**cost of worker's compensation insurance for administration and operating employees.

xiv. Contract, Dietary **C**cost of dietary services and personnel hired through contract that are not employees of the facility.

xv. Contract, Housekeeping **C**cost of housekeeping services and personnel hired through contract that are not employees of the facility.

xvi. Contract, Laundry **C**cost of laundry services and personnel hired through contract that are not employees of the facility.

xvii. Contract, Maintenance **C**cost of maintenance services and persons hired through contract that are not employees of the facility.

xviii. Consultant Fees, Dietician **C**fees paid to consulting registered dietitians.

xix. Accounting Fees **C**fees incurred for the preparation of the cost report, audits of financial records, bookkeeping, tax return preparation of the adult day health care facility and other related services excluding personal tax planning and personal tax return preparation.

xx. Amortization Expense, Non-Capital **C**costs incurred for legal and other expenses when organizing a corporation must be amortized over a period of 60 months. Amortization of costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are non-allowable costs. If allowable cost is reported on this line, an

amortization schedule must be submitted with the cost report.

xxi. Bank Service Charges—fees paid to banks for service charges, excluding penalties and insufficient funds charges.

xxii. Dietary Supplies—costs of consumable items such as soap, detergent, napkins, paper cups, straws, etc., used in the dietary department.

xxiii. Dues—dues to one organization are allowable.

xxiv. Educational Seminars and Training—the registration cost for attending educational seminars and training by employees of the facility and costs incurred in the provision of in-house training for facility staff, excluding owners or administrative personnel

xxv. Housekeeping Supplies—cost of consumable housekeeping items including waxes, cleaners, soap, brooms and lavatory supplies.

xxvi. Insurance, Professional Liability and Other—includes the costs of insuring the facility against injury and malpractice claims and the cost of vehicle insurance.

xxvii. Interest Expense, Non-Capital and Vehicles—interest paid on short term borrowing for facility operations and on vehicle loans.

xxviii. Laundry Supplies—cost of consumable goods used in the laundry including soap, detergent, starch and bleach.

xxix. Legal Fees—only actual and reasonable attorney fees incurred for non-litigation legal services related to patient care are allowed.

xxx. Linen and Laundry Supplies—cost of sheets, blankets, pillows, gowns, underpads and diapers (reusable and disposable) and consumable goods used in the laundry including soap, detergent, starch and bleach.

xxxi. Miscellaneous—costs incurred in providing facility services that cannot be assigned to any other line item on the cost report. Examples of miscellaneous expense are small equipment purchases, all employees' physicals and shots, nominal gifts to all employees, such as a turkey or ham at Christmas, allowable advertising, and flowers purchased for the enjoyment of the clients. Items reported on this line must be specifically identified.

xxxii. Management Fees and Home Office Costs—the cost of purchased management services or home office costs incurred that are allocable to the provider. Costs included that are for related management/home office costs must also be reported on a separate cost report that includes an allocation schedule.

xxxiii. Non-Emergency Medical Transportation—the cost of purchased non-emergency medical transportation services including, but not limited to, payments to employees for use of personal vehicle, ambulance companies and other transportation companies for transporting patients of the facility.

xxxiv. Office Supplies and Subscriptions—cost of consumable goods used in the business office such as pencils, paper and computer supplies; cost of printing forms and stationery including but not limited to, nursing and medical forms, accounting and census forms, charge tickets, facility letterhead and billing forms; cost of subscribing to newspapers, magazines and periodicals.

xxxv. Postage—cost of postage, including stamps, metered postage, freight charges and courier services.

xxxvi. Repairs and Maintenance—supplies and services, including electricians, plumbers, extended service agreements, etc., used to repair and maintain the facility building, furniture and equipment except vehicles. This includes computer software maintenance.

xxxvii. Taxes and Licenses—the cost of taxes and licenses paid that are not included on any other line on Form 6. This includes tags for vehicles, licenses for facility staff (including nurse aide re-certifications) and buildings.

xxxviii. Telephone and Communications—cost of telephone services, WATS lines and fax services.

xxxix. Travel—cost of travel (airfare, lodging, meals, etc.) by the administrator and other authorized personnel to attend professional and continuing educational seminars and meetings or to conduct facility business. Commuting expenses and travel allowances are not allowable.

xl. Vehicle Expenses—vehicle maintenance and supplies, including gas and oil.

xli. Utilities—cost of water, sewer, gas, electric, cable TV and garbage collection services.

xlii. Allocated Costs, Hospital Based—costs that have been allocated through the step-down process from a hospital as administrative and operating costs.

xliii. Total Administrative and Operating Costs

d. Property and Equipment

i. Amortization Expense, Capital—legal and other costs incurred when financing the facility must be amortized over the life of the mortgage. Amortization of goodwill is not an allowable cost. Amortization of costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are non-allowable costs. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

ii. Depreciation—depreciation on the facility's buildings, furniture, equipment, leasehold improvements and land improvements.

iii. Interest Expense, Capital—interest paid or accrued on notes, mortgages, and other loans, the proceeds of which were used to purchase the facility's land, buildings and/or furniture and equipment, excluding vehicles.

iv. Property Insurance—cost of fire and casualty insurance on facility buildings and equipment, excluding vehicles. Hospital-based facilities and state-owned facilities must allocate property insurance based on the number of square feet.

v. Property Taxes—taxes levied on the facility's buildings and equipment, excluding vehicles. Hospital based facilities and state owned facilities must allocate property insurance based on the number of square feet.

vi. Rent, Building—cost of leasing the facility's real property.

vii. Rent, Furniture and Equipment—cost of leasing the facility's furniture and equipment, excluding vehicles.

viii. Lease, Automotive—cost of leases for vehicles used for patient care. A mileage log must be maintained. If a leased vehicle is used for both patient care and personal purposes, cost must be allocated based on the mileage log.

ix. Allocated Costs, Hospital Based Costs that have been allocated through the step-down process from a hospital or state institution as property costs when those costs include allocated overhead.

x. Total Property and Equipment.

11. Non-Allowable Costs. Costs that are not based on the reasonable cost of services covered under Medicare and are not related to the care of beneficiaries are considered non-allowable costs.

a. Reasonable cost does not include the following:

i. costs not related to client care;

ii. costs specifically not reimbursed under the program;

iii. costs that flow from the provision of luxury items or services (items or services substantially in excess or more expensive than those generally considered necessary for the provision of the care);

iv. costs that are found to be substantially out of line with other centers that are similar in size, scope of services and other relevant factors;

v. cost exceeding what a prudent and cost-conscious buyer would incur to purchase the goods or services.

b. General non-allowable costs:

i. services for which Medicaid recipients are charged a fee;

ii. depreciation of non-client care assets;

iii. services that are reimbursable by other state or federally funded programs;

iv. goods or services unrelated to client care;

v. unreasonable costs.

c. Specific Non-Allowable Costs (This is not an all inclusive listing)

i. Advertising-costs of advertising to the general public that seeks to increase patient utilization of the ADHC center.

ii. Bad Debts-accounts receivable that are written off as not collectible.

iii. Contributions-amounts donated to charitable or other organizations.

iv. Courtesy allowances.

v. Director's fees.

vi. Educational costs for clients.

vii. Gifts.

viii. Goodwill or interest (debt service) on goodwill.

ix. Costs of income producing items such as fund raising costs, promotional advertising, or public relations costs and other income producing items.

x. Income taxes, state and federal taxes on net income levied or expected to be levied by the federal or state government.

xi. Insurance, Officers-Cost of insurance on officers and key employees of the center when the insurance is not provided to all employees.

xii. Judgments or settlements of any kind.

xiii. Lobbying costs or political contributions, either directly or through a trade organization.

xiv. Non-client entertainment.

xv. Non-Medicaid Related Care Costs-Costs allocated to portions of a facility that are not licensed as the reporting ADHC or are not certified to participate in Title XIX.

xvi. Officers' life insurance with the center or owner as beneficiary.

xvii. Payments to the parent organization or other related party.

xviii. Penalties and Sanctions-Penalties and sanctions assessed by the Centers for Medicare and Medicaid Services, the Internal Revenue Services or the State Tax Commission; insufficient funds charges.

xix. Personal comfort items.

xx. Personal use of vehicles.

C. Provider Reimbursement

1. Cost Determination Definitions

a. Indices

i. CPI, All Items-Cthe Consumer Price Index for All Urban Consumers-South Region (All items line) as published by the United States Department of Labor.

ii. CPI, Medical Services-Cthe Consumer Price Index for All Urban Consumers-South Region (Medical Services line) as published by the United States Department of Labor.

b. Adjustment Factors-Cthe adjustment factor is computed by dividing the value of the index for December of the year preceding the rate year by the value of the index one year earlier (December of the second preceding year).

c. Rate Year-Cthe rate year is the period from July 1 through June 30 of the next calendar year. It corresponds with the state fiscal year.

d. Base Rate-Cthe base rate is the rate calculated in accordance with §10939.C.2.e. plus any base rate adjustments granted in accordance with §10939.C.2.g. of this section which are in effect at the time of calculation of new rates or adjustments.

e. Base Rate Components-Cthe base rate is the summation of the following:

i. Direct Care.

ii. Care Related Costs.

iii. Administrative and Operating Costs.

iv. Property Costs.

2. Rate Determination

a. Calculation of Base Rate-Crates are calculated from cost report data. Allowable costs include those costs incurred by providers to conform to state licensure and federal certification standards. General cost principles are applied during the desk review and audit process to determine allowable costs. These general cost principles include determining whether the cost is ordinary, necessary, and related to delivery of care; the cost is what a prudent and cost conscious business person would pay for the specific goods or services in the open market in an arm's length transaction; and the cost is for goods or services actually provided to the center. Through the desk review and audit process, adjustments and/or disallowances may be made to a providers reported costs. "HIM-15," the Medicare Provider Reimbursement Manual, is the final authority for allowable costs unless the Louisiana Department of Health and Hospitals has set a more restrictive policy.

b. Audited and desk reviewed costs for each component are ranked by facility to determine the value of each component at the median.

c. The median costs for each component are multiplied in accordance with §10939.A.4. then by the appropriate economic adjustment factors for each successive

year to determine base rate components. For subsequent years, the components thus computed become the base rate components to be multiplied by the appropriate economic adjustment factors, unless they are adjusted as provided in §10939.C.2.g. Application of an inflationary adjustment to reimbursement rates in non-rebasing years shall apply only when the state legislature allocates funds for this purpose. The inflationary adjustment shall be made prorating allocated funds based on the weight of the rate components.

d. The inflated median shall be increased to establish the base rate component as follows.

i. The inflated direct care median shall be multiplied times 115 percent to establish the direct care base rate component.

ii. The inflated care related median shall be multiplied times 105 percent to establish the care related base rate component.

iii. The administrative and operating median shall be multiplied times 105 percent to establish the administrative and operating base rate component.

e. At least every three years, audited and desk reviewed cost report items will be compared to the rate components calculated for the cost report year to insure that the rates remain reasonably related to costs.

f. Formulae. Each cost component shall be calculated as follows.

i. Direct Care Cost Component. Direct care per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for Medical Services. The direct care rate component shall be set at 115 percent of the inflated median.

ii. Care Related Cost Component. Care related per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for All Items. The care related rate component shall be set at 105 percent of the inflated median.

iii. Administrative and Operating Cost Component. Administrative and operating per diem cost from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward by dividing the value of the CPIC All Items index for December of the year preceding the rate year by the value of the index for the December of the year preceding the cost report year. The administrative and operating rate component shall be set at 105 percent of the inflated median.

iv. Property Cost Component. The property per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median

cost. This will be the rate component. Inflation will not be added to property costs.

g. Parameters and Limitations

i. Method of Calculation. All calculations described in this methodology shall be carried out algebraically.

ii. Rounding. In all calculations, the base rate and the base rate components will be rounded to the nearest one hundredth of a dollar (cent) and the economic adjustment factors will be rounded to four decimal places.

h. Interim Adjustments to Rates. If an unanticipated change in conditions occurs that affects the cost of at least 50 percent of the enrolled ADHC providers by an average of 5 percent or more, the rate may be changed. The Bureau will determine whether or not the rates should be changed when requested to do so by 25 percent or more of the enrolled providers, or an organization representing at least 25 percent of the enrolled providers. The burden of proof as to the extent and cost effect of the unanticipated change will rest with the entities requesting the change. The Bureau, however, may initiate a rate change without a request to do so. Changes to the rates may be one of two types; temporary adjustments or base rate adjustments as described below.

i. Temporary Adjustment. Temporary adjustments do not affect the base rate used to calculate new rates.

(a). Changes reflected in the economic indices. Temporary adjustments may be made when changes which will eventually be reflected in the economic indices, such as a change in the minimum wage, a change in FICA or a utility rate change, occur after the end of the period covered by the indices, i.e., after the December preceding the rate calculation. Temporary adjustments are effective only until the next annual base rate calculation.

(b). Lump Sum Adjustments. Lump sum adjustments may be made when the event causing the adjustment requires a substantial financial outlay, such as a change in certification standards mandating additional equipment or furnishings. Such adjustments shall be subject to the Bureau's review and approval of costs prior to reimbursement.

ii. Base Rate Adjustment. A base rate adjustment will result in a new base rate component value that will be used to calculate the new rate for the next fiscal year. A base rate adjustment may be made when the event causing the adjustment is not one that would be reflected in the indices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

Family Impact Statement

1. The Effect on the Stability of the Family. None.
2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. None.
3. The Effect on the Functioning of the Family. None.
4. The Effect on Family Earnings and Family Budget. None.
5. The Effect on the Behavior and Personal Responsibility of Children. None.

6. The Ability of the Family or a Local Government to Perform the Function as Conatined in the Proposed Rule. None.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, August 27, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Adult Day Health Care
Services C Prospective Payment System C Reimbursement
Methodology**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$10,721 for SFY 2002-03, \$20,026 for SFY 2003-04, and \$20,628 for SFY 2004-05. It is anticipated that \$1,998 (\$999 SGF and \$999 FED) will be expended in SFY 2002-2003 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$24,846 for SFY 2002-03, \$49,126 for SFY 2003-04, and \$50,599 for SFY 2004-05.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that the implementation of this proposed rule will increase payments to providers of Adult Day Health Care services by approximately \$33,569 for SFY 2002-03, \$69,152 for SFY 2003-04, and \$71,227 for SFY 2004-05.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben Beardon
Director
0207#055

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Facility Need Review
Emergency Community Home Bed Pool
(48:I.12501 and 12503)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend the Facility Need Review regulations as authorized by R.S. 40:2116. This proposed Rule is amended in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals adopted a rule governing Facility Need Review in August 1995 (*Louisiana Register*, Volume 21, Number 8). The August 1995 rule was amended in July 1999 to adopt new provisions governing the relocation of nursing facility beds (*Louisiana Register*, Volume 25, Number 7). The 2001 Appropriations Bill, Act 12 of the 2001 Regular Session, authorized the department to transfer 50 beds currently licensed to state developmental centers to non-state operated community homes for the mentally retarded for emergency situations in accordance with a plan to be developed by the department. Accordingly, by Emergency Rule enacted in August 2001, the department amended the August 1995 and July 1999 rules governing Facility Need Review to create the Emergency Community Home Bed Pool, consisting of 50 Medicaid enrolled beds transferred from state developmental centers, to be made available for transfer to non-state operated community homes in order to address emergency situations on a case-by-case basis (*Louisiana Register*, Volume 27, Number 8). The provisions of the August 2001 Emergency Rule were continued in effect by subsequent emergency rules enacted in November 2001 (*Louisiana Register*, Volume 27, Number 11) and March 2002 (*Louisiana Register*, Volume 28, Number 3).

By June 30, 2002, the Secretary of the department had authorized the transfer of some, but not all, of the beds in the Emergency Community Home Bed Pool to nonstate-operated community homes. Since the provisions of the 2001 Appropriations Bill have not been continued in effect beyond June 30, 2002 by any subsequent legislation, the secretary of the department cannot authorize the transfer of any additional beds from the pool after that date. Therefore, the department proposes to amend LAC48:I.12501-12503 include conditions to be imposed upon the use of beds which have been authorized to be transferred from the Emergency Community Home Bed Pool on or before June 30, 2002. By the Emergency Rule effective June 30, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repealed the

Emergency Rule published in the March 20, 2002 *Louisiana Register* and amended the August 20, 1995 and July 20, 1999 rules on Facility Need Review in order to impose conditions upon the use of beds which have been authorized to be transferred from the Emergency Community Home Bed Pool on or before June 30, 2002 under the provisions of the Emergency Rules contained in the August 20, 2001, November 20, 2001, and March 20, 2002 *Louisiana Registers*.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 48

PUBLIC HEALTH GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12501. Introduction

- A. ...
- B. Definitions

*Emergency Community Home Bed Pool*Ca pool consisting of approved beds which have been transferred from state developmental centers and which are made available for transfer to nonstate-operated community homes in order to address emergency situations on a case-by-case basis.

- C. - F.6. ...

7. Beds may not be disenrolled, except as provided under the alternate use policy, under the Emergency Community Home Bed Pool exception, and during the 120-day period to have beds relicensed or recertified. The approval for beds disenrolled, except as indicated, will automatically expire.

- F.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:

§12503. Determination of Bed Need

- A. - A.6.d. ...

7. Emergency Community Home Bed Pool Exception
a. The Emergency Community Home Bed Pool consists of all Medicaid enrolled beds which have been authorized to be transferred from state developmental centers to nonstate-operated community homes on or before June 30, 2002, in order to address emergency situations on a case-by-case basis.

b. Effective July 1, 2002, the Secretary of the Department may not authorize the transfer of any beds from the Emergency Community Home Bed Pool to a nonstate operated community home unless the bed had been authorized to be transferred to a nonstate operated community home on or before June 30, 2002 and was subsequently transferred from that facility back to the pool pursuant to §12503.7.f.

c. Emergency situations which may be addressed through the use of the Emergency Community Home Bed

Pool shall include, but not be limited to, situations in which it is difficult or impossible to find a placement for an individual in an ICF/MR because of one of the following:

- i. an inadequate number of available ICF/MR beds in the service area to serve the needs of the mentally retarded/developmentally disabled population in general;
- ii. an inadequate number of available ICF/MR beds in the service area to serve the needs of the mentally retarded/developmentally disabled population who also have physical or behavioral disabilities or difficulties;
- iii. an inadequate number of available ICF/MR beds in the service area to provide for the transition of individuals from residing in large residential facilities to residing within the community.

d. Any agency or individual who becomes aware of an actual or potential emergency situation should inform the Office for Citizens with Developmental Disabilities (OCDD). The OCDD shall submit to the Facility Need Review Program its recommendations for emergency placement. The recommendations from the OCDD shall include identification of the individual in need of emergency placement, the individual's needs, the service area in which transfer from the Emergency Community Home Bed Pool is requested, and the names of one or more existing community homes that would be appropriate for emergency placement.

e. To be eligible for transfer of one or more beds from the Emergency Community Home Bed Pool, a community home must meet the following requirements, based on documentation provided by the Health Standards Section.

i. The facility must comply with the physical accessibility requirements of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, or if it does not comply with those requirements, it must have a written plan to be in compliance within 24 months.

ii. The facility can not have been on a termination track or have had any repeat deficiencies within the last 12 months.

iii. The facility must meet all square footage requirements, *Life Safety Code* requirements and general construction requirements of 42 CFR Subpart D, Conditions of Participation for ICF/MR, as well as Standards for Payment, LAC 50:II.Chapter 103 and Louisiana Licensing Requirements for Intermediate Care Facilities.

iv. The facility must ensure the provision of sufficient staffing and behavior modification plans to meet the needs of current residents and prevent clients residing in the facility from being adversely affected by the emergency admission.

f. The Secretary shall authorize the transfer of the bed to be used at the nonstate-operated community home, and upon the enrollment of the transferred bed at that community home, it shall be permanently transferred to that facility, subject to the following conditions.

i. Once the bed is no longer needed to remedy the emergency situation, the facility shall continue to make it available for subsequent emergency placements, although it may be used temporarily to serve other individuals until it is needed for a new emergency placement.

ii. The facility shall make the bed available for a new emergency placement within 72 hours after receiving a request for such placement from the Department as set forth

herein. If the facility does not comply with such a request, the Secretary may, at his discretion, transfer the bed from the facility back to the Emergency Community Home Bed Pool.

g. Beds which have been placed in the Emergency Community Home Bed Pool shall be exempt from the bed need criteria and the requirements for requests for proposals which are normally applicable to ICF/MRs.

h. For purposes of the Emergency Community Home Bed Pool exception, the definition of "service area" provided in §12503.A.1 is applicable.

B. - B.11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, August 27, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Facility Need Review
Emergency Community Home Bed Pool**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that \$486 (\$243 SGF and \$243 FED) will be expended in SFY 2002-03 for the state's administrative expense for promulgation of this proposed Rule and the final Rule. It is anticipated that the implementation of this proposed Rule will have no programmatic fiscal impact for SFY 2003-04, and 2004-05.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not impact federal revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed Rule will not have estimable costs and/or economic benefits for directly affected persons or non governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0207#056

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Pharmacy Benefits Management Program
Prior Authorization Process**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. Prior law, R.S. 46:153.3, authorized coverage and reimbursement of prescription drugs in the Medicaid Program and established the Medicaid Drug Program Committee. R.S. 46:153.3.B and C allowed the Department of Health and Hospitals to limit reimbursement for multi-source prescription drugs in accordance with state and federal law; but mandated the department to provide reimbursement for any drug prescribed by a physician that, in his professional judgment and within the lawful scope of his practice, was considered appropriate for the diagnosis and treatment of the patient; and also prohibited the department from establishing a drug formulary that restricted, by any prior or retroactive approval process, a physician's ability to treat a patient with a prescription drug that had been approved and designated as safe and effective by the Food and Drug Administration.

In recognition of the need to ensure that the state delivers a medical assistance prescription drug program which is both cost effective and prudently administered, the Louisiana Legislature enacted Act 395 of the 2001 Regular Session to amend R.S. 46:153.3.B.(2)(a) which states "The Department may establish...or any other process or combination of processes that prove to be cost-effective in the Medical Assistance Program." In addition, the Act created the Medicaid Pharmaceutical and Therapeutics Committee and abolished the Medicaid Drug Program Committee.

Until Act 395 was enacted, the department was prohibited from utilizing a prescription prior authorization process within the Louisiana Medicaid Program. With the passage of this legislation, the restriction was removed and the department adopted a rule to implement a prior authorization process with a preferred drug list (PDL) for certain designated drugs in selected therapeutic classes covered under the Pharmacy Benefits Management Program (*Louisiana Register*, Volume 28, Number 5).

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implements a prior authorization process with a preferred drug list for certain designated drugs covered under the Medicaid

Pharmacy Benefits Management Program. The following provisions shall govern coverage for prescribed medications and/or supplies.

A. General Provisions

The medication must be prescribed by a practitioner who is authorized to prescribe under state law. The National Drug Code (NDC) must be shown on each pharmacy claim form for reimbursement of prescription drugs subject to rebates from manufacturers as mandated by federal law and regulations.

B. Covered Drugs

Coverage of drugs shall be limited to specific drug products authorized for reimbursement by therapeutic category and listed by generic name, strength/unit, NDC, and brand name. Those drug products subject to mandatory coverage as a result of a rebate agreement with the federal government will be covered until written notice is received from the Centers for Medicare and Medicaid Services that coverage will be terminated. Providers will be given prior notice of termination of coverage as required under federal regulations.

C. Prior Authorization with a Preferred Drug List

As authorized by R.S. 46:153.3.B.(2)(a) and pursuant to 42 U.S.C. s1396r-8, a prior authorization process is established which utilizes a preferred drug list (PDL) for selected therapeutic classes. Drugs included on the PDL are automatically prior authorized. Drugs in those classes that are not included on the PDL shall require prescribers to obtain prior authorization. Providers will be notified of the drugs selected for placement on the PDL by selected therapeutic classes prior to implementation of the prior authorization process and as additional drugs are subsequently added to the list. Lists of covered drug products, including those that require prior authorization, will be maintained in either the Prescription Drug Services Manual, other designated service provider manuals, on the Louisiana Medicaid web site or provider notices.

The prior authorization process provides for a turn-around response within 24 hours of receipt of a prior authorization request by either telephone, mail or electronic communication. In emergency situations, providers may dispense at least a 72 hour supply of medication as mandated by R.S. 46:153.3.B.(2)(a) and pursuant to 42 U.S.C. s1396r-8.

The Pharmaceutical and Therapeutics Committee will make recommendations to the Department regarding drugs to be considered for prior authorization. The composition of and appointment to the Pharmaceutical and Therapeutics Committee complies with R.S. 46:153.3.D and 42 U.S.C.s1396r-8.

D. Drugs Excluded from Coverage

As provided by Section 1927(d)(2) of the Social Security Act, the following drugs are excluded from program coverage:

1. experimental drugs;
2. anorexics;
3. cough and cold preparations;
4. cosmetic drugs;
5. compounded prescriptions (mixtures of two or more ingredients);

6. medications which are included in the reimbursement to a facility, i.e. hospitals, skilled nursing facility for recipients receiving benefits under Part A of Title XVIII, mental hospitals, or some other nursing facilities;

7. non-legend drugs with some exceptions;
8. fertility drugs when used for fertility treatment;
9. vaccines covered in other programs; and
10. DESI Drugs (see E. below).

E. DESI Drugs

Those drugs that are subject to a Notice of Opportunity for Hearing (NOOH), as prescribed by Section 1927(k)(2)(A) of the Social Security Act, for which the Food and Drug Administration has proposed to withdraw from the market because they are less than effective or identical, related, or similar drugs, and are identified as DESI ineffective drugs shall be excluded from coverage.

Implementation of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, August 27, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pharmacy Benefits Management
ProgramC Prior Authorization Process**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule (including the administrative costs of professional services contracts, staffing, and equipment relative to initial start-up as well as programmatic savings) will increase state fund expenditures by approximately \$1,420,775 for SFY 2001-02. It is anticipated that the implementation of this proposed Rule will decrease state fund expenditures by approximately \$13,753,029 for SFY 2002-03, \$16,336,328 for SFY 2003-04, and \$19,351,200 for SFY 2004-05. It is anticipated that \$270 (\$135 SGF and \$135 FED) will be expended for the states administrative expense for promulgation of this proposed Rule and the final Rule in SFY 2002-03.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$2,793,064 for 2001-02 and will decrease federal revenue collections by approximately \$44,233,142 for SFY 2002-03, \$50,540,496 for SFY 2003-04, and \$57,943,187 for SFY 2004-05.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed Rule will establish a prior authorization process for those designated prescription drugs that are not included on the preferred drug list (PDL) for selected therapeutic classes of drugs. This proposed Rule will decrease reimbursement to pharmacies by approximately \$1,496,100 for SFY 2001-02, \$66,568,790 for SFY 2002-03, \$75,422,440 for SFY 2003-04, and \$85,853,624 for SFY 2004-05. It is anticipated that the implementation of this proposed Rule will not have an estimated cost or economic benefit to Medicaid recipients.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment resulting from implementation of this proposed Rule.

Ben A. Bearden
Director
0207#057

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Interim Safe Drinking Water Program
Enhanced Surface Water Treatment
(LAC 51:XII.Chapters 1-11)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Office of Public Health (DHH-OPH) intends to amend certain sections of Chapters 1 and 3 of Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51:XII). In addition, LAC 51:XII.Chapter 11 will be amended and renumbered in its entirety since new sections are proposed to be inserted. These amendments are necessary in order that DHH-OPH may be able to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C. §300f, et seq.) primary implementing regulations (40 CFR Part 141).

This rule is specifically necessary due to a federal rule promulgated by the USEPA in the *Federal Register* dated December 16, 1998 (Volume 63, Number 241, pages 69477 through 69521), which is entitled "National Primary Drinking Water Regulations: Interim Enhanced Surface Water Treatment; Final Rule". In addition, technical corrections to the federal Interim Enhanced Surface Water Treatment Rule (IESWTR) were promulgated by the USEPA in the *Federal Register* dated January 16, 2001 (Volume 66, Number 10, pages 3769 through 3780) and in the *Federal Register* dated February 12, 2001 (Volume 66, Number 29, page 9903). The compliance date for public water systems subject to the federal IESWTR was January 1, 2002; therefore, the reason for this proposed amendment to Part XII (Water Supplies) of the Louisiana State Sanitary Code is to adopt a state rule which is at least equivalent to the federal rule. The proposed rule is applicable to public water systems

whose source of water supply is surface water or ground water under the direct influence of surface water (GWUDISW). The proposed rule particularly, but not exclusively, amends DHH-OPH's existing Surface Water Treatment Rule (SWTR) which was originally promulgated on March 20, 1991 [(formerly Appendix D of Chapter XII) now LAC 51:XII.Chapter 11]. It also particularly, but not exclusively, applies to those public water systems serving at least 10,000 individuals and whose source of water supply is surface water or GWUDISW.

The general purposes of the proposed rule are to improve control of microbial pathogens, including specifically the protozoan *Cryptosporidium*, in drinking water and to address risk trade-offs with disinfection byproducts. Key provisions established in the proposed rule include: 2-log (99 percent) *Cryptosporidium* removal requirements for systems that filter; strengthened combined filter effluent turbidity performance standards [generally, from 0.5 Nephelometric Turbidity Units (NTUs) at least 95 percent of the time per month down to 0.3 NTUs at least 95 percent of the time per month]; individual filter turbidity monitoring including response actions based upon certain individual filter turbidity exceedances; disinfection profiling provisions to assure continued levels of microbial protection; and, inclusion of *Cryptosporidium* in the definition of GWUDISW and in the watershed control requirements for unfiltered GWUDISW systems.

The DHH-OPH believes that implementation of the provisions of the proposed rule will significantly reduce the level of *Cryptosporidium* in finished drinking water supplies through improvements in filtration. It is also believed that the rule provisions will also reduce the likelihood of the occurrence of outbreaks of cryptosporidiosis by providing a larger margin of safety against such outbreaks in some systems. In addition, the filtration provisions of the rule are expected to increase the level of protection from exposure to other waterborne pathogens, e.g., *Giardia* (or other protozoan, bacterial, or viral pathogens).

For the reasons set forth above, Part XII (Water Supplies) of the Louisiana State Sanitary Code is proposed to be amended as follows.

**Title 51
PUBLIC HEALTH SANITARY CODE
Part XII. Water Supplies**

**Chapter 1. General
§101. Definitions**

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows:

Substantial Renovation Instances when new water treatment units are added to existing water treatment plants or non-serviceable portions of existing water treatment units are reconstructed. In addition, alterations or changes which increase plant capacity are included in this term.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258 (B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 36:254 (B)(7), R.S. 40:4 (A)(8), R.S. 40:5 (2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1318 (June 2002), amended LR 28:

Chapter 3. Water Quality Standards

§323. Filtration

A. All potable water derived from surface waters shall be filtered before distribution. Pressure filters shall not be used as the primary turbidity removal mechanism in the filtration of surface waters. On a case-by-case basis, DHH may allow pressure filters to be used as the primary turbidity removal mechanism in systems identified as being a groundwater under the direct influence of surface water (GWUDISW) system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1322 (June 2002), amended LR 28:

§355. Mandatory Disinfection

A. Routine, continuous disinfection is required of all public water systems other than those under §361.A of this Part. Where continuous chlorination methods are used, the following minimum concentration of free chlorine residual shall be provided leaving the plant:

pH Value	Free Chlorine Residual
up to 7.0	0.4 mg/l
7.0 to 8.0	0.6 mg/l
8.0 to 9.0	0.8 mg/l
over 9.0	1.0 mg/l

1. This table does not apply to systems using chloramines.

B. All new groundwater systems installed after the effective date of these regulations shall provide at least 30 minutes contact time prior to the first customer. It is recommended that all existing systems provide the 30 minutes contact time prior to the first customer. Additions to or extensions of existing systems are exempt from the 30 minutes contact time.

C. Public water systems which use surface water or ground water under the direct influence of surface water shall meet the requirements of applicable sections of the Louisiana Interim Enhanced Surface Water Treatment Rule (LAC 51:XII.Chapter 11) as it pertains to CT and *Giardia*, *Cryptosporidium*, and virus removal/inactivation/disinfection requirements.

D. The effective date for mandatory disinfection for all public water systems serving a population of greater than 500 shall be July 1, 1995.

E. The effective date of mandatory disinfection for all public water systems serving a population of 500 or less shall be July 1, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1326 (June 2002), amended LR 28:

Chapter 11. Interim Enhanced Surface Water Treatment Rule

Subchapter A. General Requirements and Definitions

§1101. General Requirements

A. For public water systems using surface water or groundwater under the direct influence of surface water

(GWUDISW), this Chapter establishes or extends treatment technique requirements in lieu of maximum contaminant levels for the following microbial contaminants: *Giardia lamblia* (cysts), viruses, heterotrophic plate count bacteria, *Legionella*, turbidity, and (for public water systems using surface water or GWUDISW as its source of water supply and serving at least 1,000 individuals) *Cryptosporidium* oocysts.

B. Each supplier using an approved surface water as its source of water supply shall provide multibarrier treatment necessary to reliably protect users from the adverse health effects of microbiological contaminants and to comply with the requirements and performance standards prescribed in this Chapter.

C. Unless the Department of Health and Hospitals, hereinafter referred to as DHH, determines that a shorter time limit is necessary due to an emergency situation or the finding of a significant deficiency, a supplier shall, within 90 days from the date of notification by DHH that a treatment plant using surface water or GWUDISW as its source of water supply does not meet the requirements of this Appendix, submit for DHH approval a plan and schedule to bring its system into compliance.

D. If the supplier disagrees with the DHH's notification issued pursuant to §1101.C of this Part, then the supplier shall submit in writing reasons and evidence for its disagreement as soon as possible but not later than 30 days from the receipt of the notification unless an extension of time to meet this requirement is requested and granted by the DHH. In cases when DHH's notification involves an emergency situation or the finding of a significant deficiency, the supplier shall submit in writing reasons and evidence for its disagreement as soon as possible but not later than 14 days from the receipt of such notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002), amended LR 28:

§1103. Definition of Terms

A. Words Not Defined. Words not defined in this Chapter shall have the meanings stated in Section 101 of this Part or other Parts of the Louisiana State Sanitary Code. When words not defined in this Chapter are defined in both Section 101 of this Part and in another Part of the Louisiana State Sanitary Code, the definition contained within §101 of this Part shall be given preference as it pertains to water supplies. Words not defined in any of these source documents shall have the meanings stated in the Merriam-Webster's Collegiate Dictionary-Tenth Edition, as revised.

B. Definitions. Definitions contained in §101 of this Part shall also apply to this Appendix except where the following special definitions apply.

Approved Surface Water Ca surface water or GWUDISW that has received permit approval from the DHH as a source of water supply for a public water system.

Best Available Technology Cfor the purpose of this Chapter in relation to the treatment of surface water, means conventional filtration treatment which conforms with all of the requirements of this Appendix.

Calibration dra Cto standardize [adjust the instrument response to a National Institute of Standards and Technology (NIST) traceable standard] a disinfectant residual analyzer

(such as, but not limited to, a bench top or a continuous monitoring disinfectant residual analyzer using colorimetry or spectrophotometry) by determining the deviation from a NIST traceable standard so as to ascertain and implement the proper correction factors in an attempt to obtain accurate and reliable sample results.

Calibration, To standardize (adjust the instrument response to a turbidity primary standard) a turbidimeter (such as a bench top or continuous monitoring turbidimeter) by determining the deviation from a turbidity primary standard so as to ascertain and implement the proper correction factors in an attempt to obtain accurate and reliable sample results.

Certified Operator for the purpose of this Chapter, the individual, as examined by the Committee of Certification and as approved by the State Health Officer, meeting all requirements of State Law and regulation and found competent to operate a treatment plant for a public water system which utilizes surface water or GWUDISW as its source of water supply.

Coagulation Ca process using coagulant chemicals and rapid mixing by which colloidal and suspended material are destabilized and agglomerated into settleable and/or filterable flocs.

Comprehensive Performance Evaluation (CPE) Ca thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation, and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. It consists of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and, preparation of a CPE report.

Conventional Filtration Treatment Ca series of treatment processes which includes coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

Deep Bed Filtration Ca process for removing particulate matter from water by passage through porous media exceeding 42 inches in total depth. Underdrain gravels are not to be included.

Diatomaceous Earth Filtration Ca process resulting in particulate removal in which a precoat cake of graded diatomaceous earth filter media is deposited on a support membrane (septum) and, while the water is being filtered by passing through the cake on the septum, additional filter media known as body feed is continuously added to the feed water to maintain the permeability of the filter cake.

Direct Filtration Treatment Ca series of processes including coagulation, flocculation, and filtration but excluding sedimentation.

Disinfectant Contact Time ("T" in CT calculations) C the time in minutes that it takes for water to move from the point of disinfectant application or a previous point of disinfectant residual measurement to a point before or at the point where residual disinfectant concentration is measured. The point of measurement shall be before or at the first customer. Disinfectant contact time in pipelines is calculated by

dividing the internal volume of the pipe by the flow rate through the pipe. Disinfectant contact time with mixing basins and storage reservoirs is determined by tracer studies or an equivalent demonstration to the DHH.

Disinfection Ca process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents.

Disinfection Profile Ca summary of daily *Giardia lamblia* inactivation through the treatment plant. For any system that uses either chloramines or ozone for primary disinfection, this term shall additionally include a summary of daily virus inactivation through the treatment plant.

Engineering Report Ca water treatment technical report prepared by a qualified engineer.

Filter Profile Ca graphical representation of individual filter performance, based on continuous turbidity measurements versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

Filtration Ca process for removing particulate matter from water by passage through porous media.

Flocculation Ca process to enhance agglomeration or collection of smaller floc particles into larger, more easily settleable or filterable particles through gentle stirring by hydraulic or mechanical means.

Groundwater Under the Direct Influence of Surface Water (GWUDISW) Ca any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as *Giardia lamblia* or (for public water systems using surface water or GWUDISW as its source of water supply and serving at least 10,000 individuals) *Cryptosporidium*, or significant and relatively rapid shifts in site specific water characteristics such as turbidity, temperature, conductivity or pH which closely correlate to climatological or surface water conditions. The DHH determination of direct influence may be based on an evaluation of site specific measurements of water quality and/or well characteristics and geology with field evaluation.

Heterotrophic Plate Count (HPC) C laboratory analytical procedure for estimating the number of live heterotrophic bacteria in water using instrumentation and methods as described in *Standard Methods for the Examination of Water and Wastewater*, 19th Edition. Results of such analysis is reported as ?colony-forming units per milliliter? (cfu/ml).

Legionella Ca genus of bacteria, some species of which have caused a type of pneumonia called Legionnaires disease.

Multibarrier Treatment Ca series of water treatment processes that provide for both removal and inactivation of waterborne pathogens.

Nephelometric Turbidity Unit (NTU) Ca measurement of the turbidity of water as determined by the comparison of the intensity of light scattered by the sample to the intensity of incident light, using instrumentation and methods described in ?105.B of this Chapter.

Peak Hourly Flow C the maximum flow through a particular disinfection segment over a 1 hour period during 24 hourly periods in a calendar day.

Pressure Filter Ca pressurized vessel containing properly sized and graded granular media.

Primary Standard (Turbidity) "C" turbidity primary standard".

Qualified Engineer Any engineer who has been registered under the provisions of R.S. 37:681, *et seq.*, and who holds a current certificate issued by the Louisiana Professional Engineering and Land Surveying Board, and who has knowledge and experience in water treatment plant design, construction, operation, and watershed evaluations.

Residual Disinfectant Concentration ("C" in CT calculations) "C" the concentration of the disinfectant in milligrams per liter (mg/l) in a representative sample of water.

Sedimentation "Ca" process for removal of settleable solids before filtration by gravity or separation.

Slow Sand Filtration "Ca" process involving passage of raw water through a bed of sand at low velocity (less than 0.10 gallons per minute per square foot) resulting in substantial particulate removal by physical and biological mechanisms.

Supplier "C" for the purpose of this Chapter, means the owner or operator of a public water system.

Surface Water "Call" water open to the atmosphere and subject to surface runoff.

Turbidity "Ca" measure of the decline of the clarity of water caused by suspended and colloidal matter, such as clay, silt, finely divided organic and inorganic matter, plankton, and other microscopic organisms. It is formally expressed as the optical property that causes light to be scattered and absorbed, rather than transmitted with no change in direction through the sample.

Turbidity Level "C" the value in NTU obtained by measuring the turbidity of a representative grab sample of water at a specified regular interval of time. If continuous turbidity monitoring is utilized, the turbidity level is the discrete turbidity value at any given time.

Turbidity Primary Standard "Ca" suspension used to calibrate a turbidimeter, such as user-prepared formazin, commercial stock formazin suspensions, or commercial styrene-divinylbenzene suspensions. Such suspensions shall be prepared and used in conformity with the laboratory methods described in §105.B of this Chapter.

Validation "C" to determine the degree of deviation of a measuring instrument (such as a bench top or continuous monitoring turbidimeter) from a primary standard by employing less sophisticated or involved means typically employed during a calibration, such as use of a state-approved secondary standard.

Virus "C" any of a large group of submicroscopic agents (that consist of a RNA or DNA core of genetic material surrounded by a protein coat but no semipermeable membrane) that are capable of growth and multiplication only in living cells and that are infectious to humans by waterborne transmission and that cause various important diseases in humans, including, but not limited to, poliomyelitis, aseptic meningitis, infectious hepatitis, gastroenteritis, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8), R.S. 40:5 (2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1336 (June 2002), amended LR 28:

§105. Analytical Requirements

A. Analysis for total coliform, fecal coliform, or HPC which may be required (or, in the case of HPC, optionally allowed in lieu of a disinfectant residual) under this Chapter shall be conducted by a laboratory certified by DHH to do such analysis. Until laboratory certification criteria are developed, laboratories certified for total coliform analysis by DHH are deemed certified for fecal coliform and HPC analysis.

B. Public water systems shall conduct analysis for turbidity in accordance with:

1. SM 2130 B [(Nephelometric Method), *Standard Methods for the Examination of Water and Wastewater*, 19th edition, American Public Health Association (APHA), 800 I Street N.W., Washington, D.C. 20001-3710. Telephone (202)777-2742. Also available from the American Water Works Association (AWWA) and the Water Environment Federation (WEF)];

2. EPA Method 180.1 [(Nephelometric Method), "Methods for the Determination of Inorganic Substances in Environmental Samples", EPA-600-R-93-100, August 1993. Available from the National Technical Information Service, NTIS PB94-121811. Telephone (800) 553-6847]; or

3. GLI Method 2 [(Great Lakes Instrument Method 2), "Turbidity", November 2, 1982, GLI International, Inc., 9020 West Dean Road, Milwaukee, Wisconsin 53224. Telephone (414) 355-3601].

C. Public water systems shall conduct analysis for applicable residual disinfectant concentrations in accordance with one of the analytical methods in Table 1. The methods listed in the following table are contained in the *Standards Methods for the Examination of Water and Wastewater*, 19th Edition.

Residual	Methodology	Methods
Free Chlorine	Amperometric Titration	SM 4500-Cl D
	DPD Ferrous Titrimetric	SM 4500-Cl F
	DPD Colorimetric	SM 4500-Cl G
	Syringaldazine (FACTS)	SM 4500-Cl H
Total Chlorine	Amperometric Titration	SM 4500-Cl D
	Amperometric Titration (low level measurement)	SM 4500-Cl E
	DPD Ferrous Titrimetric	SM 4500-Cl F
	DPD Colorimetric	SM 4500-Cl G
	Iodometric Electrode	SM 4500-Cl I
Chlorine Dioxide	Amperometric Titration	SM 4500-Cl O ₂ C
	DPD Method	SM 4500-Cl O ₂ D
	Amperometric Titration	SM 4500-Cl O ₂ E
Ozone	Indigo Method	SM 4500-O ₃ B

1. Particularly for distribution system monitoring, nothing herein shall be construed to prevent a public water system from determining the residual disinfectant concentrations for free chlorine or combined chlorine by use of DPD colorimetric test kits.

D. Public water systems shall conduct analysis for pH using one of the following electrometric methods:

1. SM 4500-H⁺ B (Standard Methods for the Examination of Water and Wastewater, 19th edition);

2. EPA Method 150.1 ("Methods for Chemical Analysis of Water and Wastes", EPA/600/4-79/020, March 1983. Available from the NTIS, PB84-128677);

3. EPA Method 150.2 ("Methods for Chemical Analysis of Water and Wastes", EPA/600/4-79/020, March 1983. Available from the NTIS, PB84-128677); or

4. ASTM Method D1293-95 [*Annual Book of ASTM Standards*, 1996, Vol. 11.01, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959. Telephone (610) 832-9585. Note: Previous version (ASTM Method D1293-84) is also approved and is located in the *Annual Book of ASTM Standards*, 1994, Vols. 11.01].

E. Public water systems shall conduct analysis for temperature using the following thermometric method:

1. SM 2550 B (Standard Methods for the Examination of Water and Wastewater, 19th edition).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5 (5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1337 (June 2002), amended LR 28:

§1107. Calibration/Validation of Turbidimeters

A. General. Calibration_t using a turbidity primary standard shall be done in accord with approved methods listed in ¶105.B.

B. Calibration_t of Turbidimeters. Bench top and continuous monitoring turbidimeters shall be calibrated using a turbidity primary standard at a frequency of no less than once every 90 days. The instruments shall be calibrated in accord with the manufacturer's instructions.

C. Validation of Bench Top Turbidimeters. Calibration_t of the bench top turbidimeters shall be validated with state-approved secondary standards each time a sample or set of samples is tested. For turbidity measurements less than 0.2 NTU and the turbidimeter reading is 20 percent or more deviation of the state-approved secondary standard, the bench top turbidimeter shall be recalibrated with a turbidity primary standard. For turbidity measurements greater than or equal to 0.2 NTU and the turbidimeter reading is 10 percent or more deviation of the state-approved secondary standard, the bench top turbidimeter shall be recalibrated with a turbidity primary standard.

D. Validation of Continuous Monitoring Turbidimeters. Calibration_t of the continuous monitoring turbidimeters shall be validated at least once each week by either using a state-approved secondary standard or determining the turbidity of the water flowing out of the continuous monitoring turbidimeter using a bench top turbidimeter. Follow-up actions based upon the validation method selected are as follows.

1. Validation by Use of a State-Approved Secondary Standard

a. If the state-approved secondary standard is less than 0.2 NTU and the continuous monitoring turbidimeter reading is 20 percent or more deviation of the state-approved secondary standard, the continuous monitoring turbidimeter shall be recalibrated with a turbidity primary standard. If the state-approved secondary standard is greater than or equal to 0.2 NTU and the continuous monitoring turbidimeter reading is 10 percent or more deviation of the state-approved secondary standard, the continuous monitoring turbidimeter shall be recalibrated with a turbidity primary standard.

2. Validation by Determining the Turbidity of the Water Flowing out of the Continuous Monitoring Turbidimeter Using a Bench Top Turbidimeter

a. For turbidity measurements less than 0.2 NTU and the continuous monitoring turbidimeter reading is 20 percent or more deviation from the bench top turbidimeter reading, the continuous monitoring turbidimeter shall be recalibrated with a turbidity primary standard. For turbidity measurements greater than or equal to 0.2 NTU and the continuous monitoring turbidimeter reading is 10 percent or more deviation from the bench top turbidimeter reading, the continuous monitoring turbidimeter shall be recalibrated with a turbidity primary standard.

E. Re-Standardization of Secondary Standards. Each time a turbidimeter has been calibrated with a turbidity primary standard, the secondary standards shall be re-standardized. When a secondary standard has been assigned an expiration date by the manufacturer, nothing herein shall be construed as to allow the re-standardization of such secondary standard beyond the expiration date set by the manufacturer.

F. Records of Calibrations/Validations. Records of calibrations/validations on each bench top and continuous monitoring turbidimeter shall be maintained for at least 3 years, as follows.

1. Records of bench top turbidimeters shall include meter location, meter identification, dates of calibration_t, and the name of the person performing the calibration_t.

2. Records of continuous monitoring turbidimeters shall include meter location (e.g., filter number), unique meter identification (e.g., model and serial number), dates of calibration_t, dates of validation, and the name of the person performing the calibration_t.

G. Records of Re-Standardization of Secondary Standards. Records of any re-standardization of secondary standards shall be maintained for at least 3 years, as follows:

1. Records of re-standardizations done using bench top turbidimeters shall include the value assigned to the secondary standard, date of assignment, meter identification (e.g., model and serial number) which was used to assign the secondary standard its unique value for such meter, manufacturer's expiration date, and the name of the person performing the re-standardization.

2. Records of re-standardizations done using continuous monitoring turbidimeters shall include the value assigned to the secondary standard, date of assignment, meter location (e.g., filter number), meter identification (e.g., model and serial number) which was used to assign the secondary standard its unique value for such meter, manufacturer's expiration date, and the name of the person performing the re-standardization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5 (5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1337 (June 2002), amended LR 28:

§1109. Calibration_{dra}/Validation of Disinfectant Residual Analyzers

A. Validation of Bench Top Disinfectant Residual Spectrophotometers/Colorimeters. The accuracy of bench top spectrophotometers/colorimeters used for disinfectant residual monitoring, particularly for validation of continuous disinfectant residual monitors, shall be determined at a frequency of no less than once every 90 days by use of a NIST traceable standard solution which has been obtained from an approved source (e.g., Certificate of Analysis by

manufacturer). Deviations of 10 percent or more shall be cause for calibration_{dra} of the equipment. The instruments shall be calibrated in accord with the manufacturer's instructions. After calibration_{dra}, the instrument's accuracy shall be validated prior to return to service.

B. Validation/Standardization Using Other Methods. For approved methods for disinfectant residual analysis other than spectrophotometric/colorimetric methods, validation/standardization of disinfectant residual analyzers shall be performed in accord with procedures outlined in the particular method [see 1103.C].

C. Validation of Continuous Disinfectant Residual Monitors. The accuracy of residual disinfectant measurements from any continuous disinfectant residual monitor shall be validated weekly. Validation shall be performed by collecting a grab sample from the tubing supplying water to the monitor (e.g., via a tee connection which is normally capped or valved closed) at a location immediately upstream (less than 5 feet) of the continuous disinfectant residual monitor. Such grab sample shall be analyzed using a bench top spectrophotometer/colorimeter which has been calibrated according to §1109.A of this Chapter. If the spectrophotometer/colorimeter reading indicates 10 percent or more deviation as compared to the continuous disinfectant residual monitor reading, the cause of the disparity shall be investigated and resolved within five working days. In the meantime, grab samples shall be collected and analyzed every two hours as per Section 1125.B of this Chapter. The accuracy of residual disinfectant measurements from any replacement instrument shall be validated prior to service or return to service.

D. Records of Calibrations/Validations. Records of calibrations/validations on each bench top spectrophotometer/colorimeter used for disinfectant residual monitoring and on each continuous disinfectant residual monitor shall be maintained for at least three years, as follows.

1. Records of bench top spectrophotometers/colorimeters shall include meter location, meter identification, dates and results of NIST traceable standard solution, dates of calibration_{dra}/validation and the name of the person performing the calibration_{dra}/validation.

2. Records of continuous disinfectant residual monitors shall include meter location, unique meter identification (e.g., model and serial number), dates and results of calibration/validation, and the corrective actions taken when deviations of 10 percent or more occur.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5 (5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1338 (June 2002), amended LR 28:

§1111. Cleaning of Analytical Instrumentation

A. A thorough cleaning of analytical instrumentation, particularly continuous monitoring turbidimeters and continuous disinfectant residual monitors, shall be performed, as necessary, prior to performing any calibration/validation. On a weekly basis, continuous monitoring turbidimeters and continuous disinfectant residual monitors shall be inspected to determine if there is any material or sedimentation in the measuring chambers. Records of such inspection/cleaning shall be kept for at least

3 years and such records shall include meter location (e.g., filter number), unique meter identification (e.g., model and serial number), dates of cleaning, and the name of the person performing the cleaning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5 (5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002), amended LR 28:

Subchapter B. Treatment Technique Requirements and Performance Standards

§1113. Treatment Technique Requirements

A. Each supplier using surface water or GWUDISW shall provide multibarrier treatment that meets the requirements of this Chapter and reliably ensures at least:

1. A total of 99.9 percent (3 Log) reduction of *Giardia* cysts through treatment processes including filtration and disinfection.

2. A total of 99.99 percent (4 Log) reduction of viruses through treatment processes including filtration and disinfection.

3. For suppliers serving at least 10,000 individuals, a total of 99 percent (2 Log) removal of *Cryptosporidium* oocysts through treatment processes including filtration.

4. The total reductions to be required by the DHH may be higher and are subject to the source water concentration of *Giardia lamblia*, viruses, and for suppliers serving at least 10,000 individuals, *Cryptosporidium*.

B. Suppliers meeting the requirements of 1115 and 1119 shall be deemed to be in compliance with the minimum reduction and removal requirements specified in 1113.A of this Chapter.

C. Section 1117 of this Chapter presents requirements for non-filtering systems. All suppliers which use surface water as a source shall provide filtration. On a case by case basis, systems using GWUDISW may not be required to filter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002), amended LR 28:

§1115. Filtration Performance Standards

A. All surface water or GWUDISW utilized by a supplier shall be treated using one of the following filtration technologies unless an alternative process has been approved by the DHH.

1. Conventional Filtration Treatment
2. Direct Filtration Treatment
3. Slow Sand Filtration
4. Diatomaceous Earth Filtration

B. Conventional filtration treatment shall be deemed to be capable of achieving at least 99.7 percent (2.5 Log) removal of *Giardia* cysts, 99 percent (2 Log) removal of *Cryptosporidium* oocysts (for public water systems serving at least 10,000 individuals), and 99 percent (2 Log) removal of viruses when in compliance with operation criteria (Subchapter D of this Chapter) and performance standards (1115 and 1119 of this Subchapter). Direct filtration treatment and diatomaceous earth filtration shall be deemed to be capable of achieving at least 99 (2 Log) percent removal of *Giardia* cysts, 99 percent (2 Log) removal of *Cryptosporidium* oocysts (for public water systems serving

at least 10,000 individuals), and 90 (1 Log) percent removal of viruses when in compliance with operation criteria (Subchapter D of this Chapter) and performance standard 1115 and 1119 of this Subchapter). Slow sand filtration shall be deemed to be capable of achieving at least 99 (2 Log) percent removal of *Giardia* cysts, 99 percent (2 Log) removal of *Cryptosporidium* oocysts (for public water

systems serving at least 10,000 individuals), and 99 (2 Log) percent removal of viruses when in compliance with operation criteria and performance standards.

1. Expected minimum removal credits for public water systems serving at least 10,000 individuals are listed in Table 2 of this Chapter along with the corresponding remaining minimum disinfection log inactivation required.

Table 2 (applicable to systems serving at least 10,000 individuals)						
Treatment Methods						
Filtration Method	Expected Minimum Log Removals			Remaining Minimum Disinfection Log Inactivation Required		
	<i>Giardia</i>	<i>Crypto</i>	Virus	<i>Giardia</i>	<i>Crypto</i>	Virus
Conventional	2.5	2.0	2.0	0.5	-0-	2.0
Direct	2.0	2.0	1.0	1.0	-0-	3.0
Slow Sand	2.0	2.0	2.0	1.0	-0-	2.0
Diatomaceous Earth	2.0	2.0	1.0	1.0	-0-	3.0

2. Expected minimum removal credits for public water systems serving less than 10,000 individuals are listed

in Table 3 of this Appendix along with the corresponding remaining minimum disinfection log inactivation required.

Table 3 (applicable to systems serving less than 10,000 individuals)				
Treatment Methods				
Filtration Method	Expected Minimum Log Removals		Remaining Minimum Disinfection Log Inactivation Required	
	<i>Giardia</i>	Virus	<i>Giardia</i>	Virus
Conventional	2.5	2.0	0.5	2.0
Direct	2.0	1.0	1.0	3.0
Slow Sand	2.0	2.0	1.0	2.0
Diatomaceous Earth	2.0	1.0	1.0	3.0

3. The remaining minimum disinfection log inactivation shall not be less than what is required pursuant to Table 2 or 3, as applicable.

C. Conventional Filtration Treatment or Direct Filtration Treatment shall comply with the following performance standards for each treatment plant:

1. The turbidity level of the filtered water shall be equal to or less than 0.3 NTU in at least 95 percent of the measurements taken each month.

EXCEPTION: In the case of public water systems using surface water or GWUDISW as its source of water supply and serving less than 10,000 individuals, the turbidity level of the filtered water shall be equal to or less than 0.5 NTU in at least 95 percent of the measurements taken each month.

2. Filtered water turbidity shall not exceed 1 NTU at any time.

EXCEPTION: In the case of public water systems using surface water or GWUDISW as its source of water supply and serving less than 10,000 individuals, filtered water turbidity shall not exceed 5 NTU at any time.

D. Slow Sand Filtration shall comply with the following performance standards for each treatment plant:

1. The turbidity level of the filtered water shall be less than or equal to 1 NTU in at least 95 percent of the measurements taken each month.

2. The turbidity level of the filtered water shall at no time exceed 5 NTU.

E. Diatomaceous earth filtration shall comply with the following performance standards for each treatment plant:

1. The filtered water turbidity shall be less than or equal to 1 NTU in at least 95 percent of the measurements each month.

2. The turbidity level of representative samples of filtered water shall at no time exceed 5 NTU.

F. An alternative to the filtration technologies specified in 1115.A of this Chapter may be used provided the supplier demonstrates to the DHH that the alternative technology, 1) provides a minimum of 99 percent *Giardia* cyst removal and 99 percent virus removal and 2) for public water systems using surface water or GWUDISW as its source of water supply and serving at least 10,000 individuals, 99 percent (2 Log) *Cryptosporidium* oocyst removal, and 3) meets the turbidity performance standards established in 1115.C of this Chapter. Such alternative filtration technology, in combination with disinfection treatment, shall be shown to consistently achieve a total of no less than 99.9 (3 Log) percent removal and/or inactivation of *Giardia lamblia* cysts and 99.99 (4 Log) percent removal and/or inactivation of viruses. The demonstration shall be based on the results from a prior equivalency demonstration or a testing of a full scale installation that is treating a water with similar characteristics and is exposed to similar hazards as the water proposed for treatment. A pilot plant test of the water to be treated may also be used for this demonstration if conducted with the approval of the DHH. The demonstration shall be presented in an engineering report prepared by a qualified engineer. Additional reporting for the first full year of operation of a new alternative filtration treatment process

approved by the DHH, may be required at DHH discretion. The report would include results of all water quality tests performed and would evaluate compliance with established performance standards under actual operating conditions. It would also include an assessment of problems experienced, corrective actions needed, and a schedule for providing needed improvements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002), amended LR 28:

§1117. Non-Filtering Systems

A. General. On a case-by-case basis, DHH may waive filtration requirements for suppliers using GWUDISW. To be considered, non-filtering systems shall conform to the criteria of this Section. All suppliers using surface water shall employ filtration.

B. Source Water Quality to Avoid Filtration

1. To avoid filtration, a system shall demonstrate that either the fecal coliform concentration is less than 20/100 ml and/or the total coliform concentration is less than 100/100 ml in the water prior to the point of disinfectant application in 90 percent of the samples taken during the six previous months. Samples shall be taken prior to blending, if employed.

a. If both fecal and total coliform analysis is performed, only the fecal coliform limit shall be met, under this condition, both fecal and total coliform results shall be reported.

b. Sample analyses methods may be the multiple-tube fermentation technique or the membrane filter technique as described in the *Standard Methods for the Examination of Water and Wastewater*, 19th Edition.

c. Minimum sampling frequencies:

Table 4	
Population	Samples/Week
≤500	1
501-3300	2
3301-10,000	3
10,001-25,000	4
> 25,000	5

d. Also, one coliform sample shall be taken and analyzed each day the turbidity exceeds 1 NTU prior to disinfection.

2. To avoid filtration, the turbidity of the water prior to disinfection cannot exceed 5 NTU based on grab samples collected every 4 hours (or more frequently) that the system is in operation. Continuous turbidity measurement is allowed provided the accuracy of the turbidity measurements are validated at least weekly in accord with §107.D of this Chapter. If there is a failure in the continuous turbidity monitoring equipment, the system shall collect and analyze a grab sample every 4 hours in lieu of continuous monitoring. Systems shall maintain the results of these turbidity measurements for at least 3 years.

C. Disinfection Criteria to Avoid Filtration

1. To avoid filtration, a system shall demonstrate that it maintains disinfection conditions which inactivate 99.9 percent (3 Log) of *Giardia* cysts and 99.99 percent (4 Log) of viruses everyday of operation except any one day each

month. To demonstrate adequate inactivations, the system shall monitor and record the disinfectant used, disinfectant residual at peak hourly flow, disinfectant contact time at peak hourly flow, pH, and water temperature, and use these data to determine if it is meeting the minimum total inactivation requirements of this rule.

a. A system shall demonstrate compliance with the inactivation requirements based on conditions occurring during peak hourly flow. Residual disinfectant measurements shall be taken hourly. Continuous disinfectant residual monitors are acceptable in place of hourly samples provided the accuracy of the disinfectant measurements are validated at least weekly in accord with §1109.B or C, as applicable, of this Chapter. If there is a failure in the continuous disinfectant residual monitoring equipment, the system shall collect and analyze a grab sample every hour in lieu of continuous monitoring. Systems shall maintain the results of disinfectant residual monitoring for at least 3 years.

b. pH and temperature shall be determined daily for each disinfection sequence prior to or at the first customer.

2. To avoid filtration, the system shall maintain a minimum residual of 0.2 mg/L free chlorine or 0.4 mg/L total chlorine entering the distribution system and maintain a detectable residual throughout the distribution system. Performance standards shall be as presented in §1119.B and C of this Chapter.

3. To avoid filtration, the disinfection system shall be capable of assuring that the water delivered to the distribution system is continuously disinfected. This requires:

a. Redundant disinfection equipment with auxiliary power and automatic start up and alarm; or

b. An automatic shut off of delivery of water to the distribution system when the disinfectant residual level drops below 0.2 mg/l free chlorine residual or 0.4 mg/L total chlorine residual.

D. Site Specific Conditions to Avoid Filtration. In addition to the requirement for source water quality and disinfection, systems shall meet the following criteria to avoid filtration maintain a watershed control program, conduct a yearly on-site inspection, determine that no waterborne disease outbreaks have occurred, comply with the total coliform MCL at least 11 months of the 12 previous months that the system served water to the public and comply on an ongoing basis, comply with Disinfection By-Product(DBP)regulations for total trihalomethanes (TTHM), haloacetic acids (five) [HAA5], bromate, and chlorite, and comply with Maximum Residual Disinfection Level (MRDL)regulations for chlorine, chloramines, and chlorine dioxide.

1. Watershed Control Program. A watershed control program for systems using GWUDISW shall include as a minimum the requirements of the Wellhead Protection Program (WHPP), delineated as follows:

a. specify the duties of state agencies, local governmental entities and public water supply systems with respect to the development and implementation of the WHPP;

b. determine the wellhead protection area (WHPA) for each wellhead as defined in 42 U.S.C.A. 300h-7(e) based on all reasonably available hydrogeologic information,

groundwater flow, recharge and discharge and other information the State deems necessary to adequately determine the WHPA;

c. identify within each WHPA all potential anthropogenic sources of contaminants which may have any adverse effect on the health of persons, specifically with the goal of minimizing the potential for contamination of the source water by *Giardia lamblia* cysts, viruses, and, for systems serving at least 10,000 individuals, *Cryptosporidium* oocysts;

d. describe a program that contains, as appropriate, technical assistance, financial assistance, implementation of control measures, education, training and demonstration projects to protect the water supply within WHPAs from such contaminants;

e. present contingency plans for locating and providing alternate drinking water supplies for each public water system in the event of well or wellfield contamination by such contaminants;

f. consider all potential sources of such contaminants within the expected wellhead area of a new water well which serves a public water system; and

g. provide for public participation.

2. On-Site Inspection. An annual on-site inspection is required to evaluate the watershed control program and disinfection facilities. The system shall be reviewed by a qualified engineer for the systems adequacy for producing safe drinking water. The annual on-site inspection shall include as a minimum:

a. review the effectiveness of the watershed control program;

b. review the physical condition and protection of the source intake;

c. review the maintenance program to insure that all disinfection equipment is appropriate and has received regular maintenance and repair to assure a high operating reliability;

d. review improvements and/or additions made to disinfection processes during the previous year to correct deficiencies detected in earlier surveys;

e. review the condition of disinfection equipment;

f. review operating procedures;

g. review data records to assure that all required tests are being conducted and recorded and disinfection is effectively practiced; and

h. identify any needed improvements in the equipment, system maintenance and operation, or data collection.

3. Sanitary Survey. In addition to the above requirements, a sanitary survey shall be performed every 3 years for community water systems and every 5 years for non-community water systems which use GWUDISW without filtration. The sanitary survey shall include:

a. review the condition of finished water storage facilities;

b. determine that the distribution system has sufficient pressure throughout the year;

c. verify that distribution system equipment has received regular maintenance;

d. review cross connection prevention program, including annual testing of backflow prevention devices;

e. review routine flushing program for effectiveness;

f. evaluate the corrosion control program and its impact on distribution water quality;

g. review the adequacy of the program for periodic storage reservoir flushing;

h. review practices in repairing water main breaks to assure they include disinfection;

i. review additions, improvements incorporated during the year to correct deficiencies detected in the initial inspection;

j. review the operations to assure that any difficulties experienced during the year have been adequately addressed;

k. review staffing to assure adequate numbers of certified operators are available in accord with LAC 48:V.Chapter 73;

l. verify that a regular maintenance schedule is followed;

m. audit systems records to verify that they are adequately maintained; and

n. review bacteriological data from the distribution system for coliform occurrence, repeat samples and action response.

4. No Disease Outbreaks. To avoid filtration, a system using GWUDISW shall not have been identified as a source of waterborne disease. If such an outbreak has occurred and (in the opinion of DHH) was attributed to a treatment deficiency, the system shall install filtration unless the system has upgraded its treatment to remedy the deficiency to the satisfaction of DHH.

5. Coliform MCL Regulations. To avoid filtration, a system shall have complied with the MCL for Total Coliforms, established in the Total Coliform Rule, for at least 11 out of 12 of the previous months unless DHH determines the failure to meet this requirement was not caused by a deficiency in treatment.

6. DBP Regulations. For a system using GWUDISW to continue using disinfection as the only treatment, the system shall comply with the DBP regulations, including TTHM, HAA5, bromate, and chlorite, as applicable.

7. MRDL Regulations. For a GWUDISW system to continue using disinfection as the only treatment, the system shall comply with the MRDLs for chlorine, chloramines, and chlorine dioxide, as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002), amended LR 28:

§1119. Disinfection Performance Standards

A. All surface water or GWUDISW utilized by a supplier shall be provided with continuous disinfection treatment sufficient to ensure that the total treatment process provides inactivation of *Giardia* cysts and viruses, in conjunction with the removals obtained through filtration, to meet the reduction requirements specified in §1113 of this Chapter.

B. Disinfection treatment shall comply with the following performance standards:

1. Water delivered to the distribution system shall contain a disinfectant residual of not less than 0.2 mg/l free

chlorine or 0.4 mg/l total chlorine for more than 4 hours in any 24 hour period.

2. The residual disinfectant concentrations of samples collected from the distribution system shall be detectable in at least 95 percent of the samples each month, taken during any two consecutive months. At any sample point in the distribution system, the presence of heterotrophic plate count (HPC) bacteria at concentrations less than 500 colony-forming units per milliliter (cfu/ml) shall be considered equivalent to a detectable disinfectant residual.

C. Determination of Inactivation by Disinfection. Minimum disinfection requirements shall be determined by DHH on a case-by-case basis but shall not be less than those required in Table 2 of §1115.B.1 or Table 3 of §1115.B.2, as applicable, of this Chapter. The desired level of inactivation shall be determined by the calculation of CT values; residual disinfectant concentration ("C") times the contact times ("T") when the pipe or vessel is in operation. Disinfectant contact time shall be determined by tracer studies.

1. The T_{10} value will be used as the detention time for calculating CTs. T_{10} is the detention time at which 90 percent of the flow passing through a vessel is retained within the vessel. Systems conducting tracer studies shall submit a plan to DHH for review and approval prior to the study being conducted. The plan shall identify how the study will be conducted, the tracer to be used, flow rates, etc. The plan shall also identify who will actually conduct the study. Tracer studies are to be conducted according to protocol found in standard engineering texts (such as *Levenspiel*), or the methodology in EPA's *Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources*, March 1991 Edition (SWTR Guidance Manual).

2. On a case-by-case basis, alternate empirical methods of calculating T_{10} as outlined in the SWTR Guidance Manual may be accepted for vessels with geometry and baffling conditions analogous to basins on which tracer studies have been conducted and results have been published in the SWTR Guidance Manual or the literature.

3. Additional tracer studies shall be conducted by the supplier whenever modifications are made which may impact flow distribution, contact time, or disinfectant distribution.

4. CT values utilized in this evaluation shall be those reported in the SWTR Guidance Manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002), amended LR 28:

§1121. Design Standards

A. All new treatment and disinfection facilities (and any existing treatment and disinfection facilities which undergo substantial renovation) shall be designed and constructed to meet the existing State Sanitary Code as modified by the requirements contained herein.

B. All new filtration facilities for surface water or GWUDISW plants (and any likewise existing filtration facilities which undergo substantial renovation) shall be designed such that each individual filter is constructed with filter-to-waste capability.

C. All new filtration and/or clearwell facilities for surface water or GWUDISW plants (and any likewise existing filtration and/or clearwell facilities which undergo substantial renovation) shall be designed to have one combined filter effluent point prior to clearwell storage. If this is not feasible for existing plants, such as when multiple clearwells already exist, each plant going to its own clearwell shall be designed to have a combined filter effluent point prior to that particular plant's clearwell.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and 40: 5 ((2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002), amended LR 28:

Subchapter C. Monitoring Requirements

§1123. Filtration Monitoring

A. Source Water Turbidity Monitoring. Each supplier using surface water or GWUDISW as a source of water supply shall monitor the turbidity level of the raw water source by taking and analyzing no less than one grab sample per day. Continuous turbidity monitoring may be substituted provided the accuracy of the measurements are validated weekly in accord with §1107.D of this Chapter. If there is a failure in the continuous turbidity monitoring equipment, the system shall collect and analyze no less than one grab sample per day. Systems shall maintain the results of raw water turbidity monitoring for at least 3 years.

B. Settled Water Turbidity Monitoring

1. Each supplier using surface water as its source of water supply should monitor and record settled water turbidity prior to filtration in each individual treatment train at least once every 4 hours.

2. Each supplier using GWUDISW as its source of water supply should, if filtration is required or otherwise performed, monitor and record settled water turbidity prior to filtration in each individual treatment train at least once every 4 hours.

C. Combined Filter Effluent Turbidity Monitoring. To determine compliance with the performance standards specified in §1115 of this Chapter, each supplier using surface water or GWUDISW shall conduct continuous turbidity monitoring of representative samples of the combined filter effluent prior to clearwell storage during all times that the system is in operation. Combined filter effluent turbidity measurements shall be recorded every 15 minutes. The accuracy of the turbidity measurements from the continuous turbidity monitor shall be validated weekly in accord with §1107.D of this Chapter. If there is a failure in the continuous turbidity monitoring equipment, the system shall collect and analyze a grab sample every 2 hours in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment. Failure to have the continuous monitoring equipment replaced or repaired and put back into continuous service following the five working days allowed herein shall be deemed to constitute a violation of this Chapter. Systems shall maintain the results of combined filter effluent turbidity monitoring for at least 3 years.

EXCEPTION: In the case of public water systems using surface water or GWUDISW and serving less than 10,000 individuals, each supplier shall conduct turbidity monitoring of representative samples of the combined filter effluent, prior to clearwell storage, at least once every 4 hours that the system is in operation. The purpose of such monitoring is to

determine compliance with the performance standards specified in ¶115 of this Chapter which is applicable to such systems. Continuous turbidity monitoring may be substituted provided the accuracy of the measurements are validated weekly in accord with ¶107.D of this Chapter. If there is a failure in the continuous turbidity monitoring equipment, the system shall collect and analyze a grab sample every 4 hours in lieu of continuous monitoring, but for no more than five working days following the failure of equipment. Systems shall maintain the results of combined filter effluent turbidity monitoring for at least 3 years.

1. In existing treatment plants which may not have a combined filter effluent point prior to clearwell storage or other design limitations, DHH may, on a case-by-case basis, allow turbidity compliance monitoring to be performed at an alternate sampling point which is determined to be representative of the system's filtered water (in accordance with Section 5.2.1 of the SWTR Guidance Manual). Requests to utilize an alternate turbidity monitoring sampling point for compliance monitoring shall be submitted in writing to DHH for review and approval.

D. Slow Sand or Small System Turbidity Monitoring. Suppliers using surface water or GWUDISW and utilizing slow sand filtration or serving fewer than 500 people may reduce turbidity monitoring to one raw water and one combined filter effluent grab sample per day if DHH determines that less frequent monitoring is sufficient to indicate effective filtration performance.

E. Individual Filter Turbidity Monitoring/Additional Actions

1. Monitoring Individual Filters for Turbidity. Public water systems using surface water or GWUDISW as its source of water supply, serves at least 10,000 individuals, and utilizes conventional filtration treatment or direct filtration shall conduct continuous turbidity monitoring for each individual filter. Such systems shall record the results of individual filter monitoring every 15 minutes while the filter is in service. The accuracy of the turbidity measurements from the continuous turbidity monitor shall be validated weekly in accord with §1107.D of this Chapter. If there is a failure in the continuous turbidity monitoring equipment, the system shall conduct grab sampling every 4 hours in lieu of continuous monitoring, but for no more than five working days following the failure of equipment. Failure to have the continuous monitoring equipment replaced or repaired and put back into continuous service following the five working days allowed herein shall be deemed to constitute a violation of this Chapter. Systems shall maintain the results of individual filter monitoring for at least 3 years.

a. When a particular water treatment plant is not configured to allow individual filter turbidity monitoring (e.g., Greenleaf Filter Plants) as required under Paragraph 1 of this Subsection, the system shall consult with DHH on a case-by-case basis to obtain approval of a plant specific alternative monitoring plan which is deemed to comply with the intent of individual filter turbidity monitoring, as far as is possible.

2. Triggered Actions Based on Individual Filter Results

Refer to ¶135.E.1 of this Chapter for additional actions which may be triggered dependent upon the results of individual filter turbidity monitoring. Compliance deadlines for performing such additional actions are also contained in §1135.E.1 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1342 (June 2002), amended LR 28:

§1125. Disinfection Monitoring

A. CT Parameters Monitoring. To determine compliance with disinfection inactivation requirements specified in Table 2 of §1115.B.1 or Table 3 of §1115.B.2, as applicable, of this Chapter, each supplier shall develop and conduct a monitoring program to measure those parameters that affect the performance of the disinfection process. This shall include but not be limited to:

1. temperature of the disinfected water at each residual disinfectant concentration sampling point;
2. pH(s) of the disinfected water (if free chlorine is used as a disinfectant) at each free chlorine residual disinfectant concentration sampling point;
3. the disinfectant contact time(s) at peak hourly flow at each residual disinfectant concentration sampling point;
4. the residual disinfectant concentrations before or at the first customer during peak hourly flow; and
5. if the system uses more than one point of disinfectant application before the first customer, the system must determine the parameters identified in Paragraphs 1-4 of this Subsection for each individual disinfection segment immediately prior to the next point of disinfectant application during peak hourly flow so that a cumulative CT value can be determined before the treated water reaches the first customer. (Note: If the treatment plant uses its own finished water for potable purposes, the first customer may be the treatment plant itself.)

B. Disinfectant Residual Monitoring at Plant. To determine compliance with the performance standards specified in §§1115 or 1119 of this Chapter, the disinfectant residual concentrations of the water being delivered to the distribution system shall be measured and recorded continuously. The accuracy of disinfectant measurements obtained from continuous disinfectant monitors shall be validated at least weekly in accord with §1109.B or C, as applicable, of this Chapter. If there is a failure of continuous disinfectant residual monitoring equipment, grab sampling every 2 hours shall be conducted in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment. Failure to have the continuous monitoring equipment replaced or repaired and put back into continuous service following the five working days allowed herein shall be deemed to constitute a violation of this Chapter. Systems shall maintain the results of disinfectant residual monitoring for at least 3 years.

C. Small System Disinfectant Residual Monitoring at Plant. Suppliers serving fewer than 3300 people may collect and analyze grab samples of the water being delivered to the distribution system for disinfectant residual determination each day in lieu of the continuous monitoring, in accordance with Table 5 of this Chapter, provided that any time the residual disinfectant falls below 0.2 mg/l free chlorine or 0.4 mg/l total chlorine, the supplier shall take a grab sample every 2 hours until the residual concentrations is equal to or greater than 0.2 mg/l free chlorine or 0.4 mg/l total chlorine.

Table 5 (applicable to systems serving less than 3,300 individuals)	
Disinfectant Residual Sampling	
System Population	Samples/Day
500	1
501-1,000	2
1,001-2,500	3
2,501-3,300	4

D. Disinfectant Residual Monitoring in Distribution System. The residual disinfectant concentrations shall be measured at least at the same points in the distribution system and at the same time that samples for total coliforms are collected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1342 (June 2002), amended LR 28:

§1127. Disinfection Profiling

A. All public water systems using surface water or GWUDISW as its source of water supply and serving at least 10,000 individuals shall perform a disinfection profile of its disinfection practice on a continuous basis.

1. Any system that meets the criteria of Subsection A of this Section shall perform monitoring on each day of operation to determine the total logs of inactivation of *Giardia lamblia* cysts, based upon the CT_{99,9} (3-Log) values in Appendix E of the SWTR Guidance Manual, as appropriate, through the entire treatment plant. Any system that uses either chloramines or ozone for primary disinfection shall additionally calculate the total logs of inactivation of viruses for each day of operation, based upon the CT_{99,99} (4-Log) values in Appendix E of the SWTR Guidance Manual. Systems with more than one point of disinfectant application shall conduct monitoring for each disinfection segment. The following parameters shall be monitored:

a. the temperature of the disinfected water at each disinfectant residual concentration sampling point during peak hourly flow;

b. if the system uses free chlorine, the pH of the disinfected water at each free chlorine residual disinfectant concentration sampling point during peak hourly flow;

c. the disinfectant contact time(s) ("T") at peak hourly flow at each residual disinfectant concentration sampling point;

i. contact time(s) determined through actual tracer studies shall be used [not theoretical contact time(s) using baffling factors];

d. the residual disinfectant concentration(s) ("C") of the water before or at the first customer during peak hourly flow (Note: If the treatment plant uses its own finished water for potable purposes, the first customer may be the treatment plant itself.); and

e. if the system uses more than one point of disinfectant application before the first customer, the system must determine the parameters identified in Subparagraphs a-d of this Paragraph for each individual disinfection segment immediately prior to the next point of disinfectant application during peak hourly flow so that a cumulative CT value can be determined before the treated water reaches the first customer. (Note: If the treatment plant uses its own

finished water for potable purposes, the first customer may be the treatment plant itself.)

B. In addition, systems subject to the requirements of Subsection A of this Section shall compute their daily total logs of inactivation utilizing a computer spread sheet format/formulas approved by DHH. The system shall retain printed disinfection profile data as daily individual spreadsheets (containing the monitoring data, CT computation, and total log inactivation data) and in monthly/yearly graphical profile form for review as part of sanitary surveys conducted by DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1129. Disinfection Practice Changes

A. Suppliers using surface water or GWUDISW as the source of water supply which decide to make a significant change to its disinfection practice shall submit plans and specifications to DHH for review and approval (in accord with the requirements of ¶05 of this Part) prior to making such change. Significant changes to disinfection practice are:

1. any changes to the point of disinfection;
2. any changes to the disinfectant(s) used in the treatment plant;
3. any changes to the disinfection process; or,
4. any disinfection practice modification which may lower the system's ability to comply with the required minimum log inactivation attributable to disinfection as listed in Table 2 of §1115.B.1 or Table 3 of §1115.B.2, as applicable, of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Subchapter D. Operation

§1131. Operating Criteria

A. All treatment plants utilizing surface water or GWUDISW shall be operated by certified operators in accord with LAC 48:V.Chapter 73.

B. Filtration facilities shall be operated in accordance with the following requirements.

1. Conventional and direct filtration treatment plants shall be operated at flow rates not to exceed 3 gallons per minute per square foot (gpm/sq ft) for gravity filters. In any instance when pressure filters have been approved by DHH as the primary turbidity removal mechanism (see §23 of this Part), filtration rates shall not exceed 2 gpm/sq ft.

2. Slow sand filters shall be operated at filtration rates not to exceed 0.10 gallons per minute per square foot. The filter bed shall not be dewatered except for cleaning and maintenance purposes.

3. Diatomaceous earth filters shall be operated at filtration rates not to exceed 1.0 gallon per minute per square foot.

4. In order to obtain approval for higher filtration rates than those specified in this Section, the supplier shall demonstrate to DHH that the filters can achieve an equal degree of performance.

5. Filtration rates shall be increased gradually when placing filters back into service following backwashing or any other interruption in the operation of the filter.

6. In any instance when pressure filters have been approved by DHH as the primary turbidity removal mechanism (see §23 of this Part), such filters shall be physically inspected and evaluated annually (not sooner than 120 calendar days from any previous inspection/evaluation) for such factors as media condition, mudball formation, and short circuiting. A written record of the inspection shall be maintained at the treatment plant.

C. Disinfection facilities shall be operated in accordance with the following requirements:

1. A supply of chemicals necessary to provide continuous operation of disinfection facilities shall be maintained as a reserve or demonstrated to be available under all conditions and circumstances.

2. An emergency plan shall be developed prior to and implemented in the event of disinfection failure to prevent delivery to the distribution system of any undisinfected or inadequately disinfected water. The plan shall be posted in the treatment plant or other place readily accessible to the plant operator.

3. System redundancy and changeover systems shall be maintained and kept operational at all times to ensure no interruption in disinfection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8), R.S. 40: 5 (2)(3)(5)(6)(17)(20) and R.S. 40: 1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Subchapter E. Reporting

§1133. DHH Notification

A. The supplier shall notify DHH by telephone or other equally rapid means as soon as possible but no later than 24 hours whenever:

1. the turbidity of the combined filter effluent as monitored exceeds 1.0 NTU at any time for conventional filtration treatment or direct filtration treatment;

EXCEPTION: In the case of public water systems using surface water and serving less than 10,000 individuals, whenever the turbidity of the combined filter effluent as monitored exceeds 5.0 NTU at any time for conventional filtration treatment or direct filtration treatment.

2. more than two consecutive 4 hour monitoring periods of the combined filter effluent show an exceedance of 0.5 NTU for conventional filtration treatment or direct filtration treatment;

EXCEPTION: In the case of public water systems using surface water and serving less than 10,000 individuals, more than two consecutive 4 hour monitoring periods of the combined filter effluent show an exceedance of 1.0 NTU for conventional filtration treatment or direct filtration treatment.

3. the turbidity of the combined filter effluent as monitored exceeds 1.0 NTU for slow sand filtration or diatomaceous earth filtration;

4. the turbidity of the combined filter effluent as monitored exceeds the maximum level set by DHH for the particular alternative filtration technology approved by DHH pursuant to §1115.F of this Chapter;

5. there is a failure to maintain a minimum disinfectant residual of 0.2 mg/l free chlorine or 0.4 mg/l total chlorine in the water being delivered to the distribution system and whether or not the disinfectant residual was restored to at least 0.2 mg/l free chlorine or 0.4 mg/l total chlorine within 4 hours;

6. an event occurs which may affect the ability of the treatment plant to produce a safe, potable water including,

but not limited to, spills of hazardous materials in the watershed and unit treatment process failures;

7. a waterborne disease outbreak potentially attributable to the water system has occurred and is discovered by the supplier.

B. In accord with the requirement of §321 of this Part, the supplier shall notify DHH by telephone or other equally rapid means as soon as possible but no later than 48 hours whenever:

1. non-compliance with a combined filter effluent turbidity standard occurs during any one particular month, e.g., anytime a minimum number of individual turbidity measurements above the turbidity standard will cause the system to exceed its 5 percent monthly allowance. [For example, in a 30 calendar day month and a plant operating 24 hours per day a total of 180 combined filter effluent turbidity compliance measurements are to be taken per month. Whenever 10 compliance measurements exceed the turbidity standard applicable to such system, the system is in violation of its treatment technique requirement (10 / 180 x 100 = 5.5 percent) and must notify DHH as soon as possible but not later than 48 hours of the violation.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1135. Monthly Report

A. General. Each supplier with a surface water or GWUDISW treatment facility shall submit a monthly written report on the operation of each facility to the DHH by the tenth day of the following month. Such report shall be signed by a certified operator of the public water system.

B. Combined Filter Effluent Turbidity Results. The monthly report shall include the following results of samples collected from the combined filter effluent (or from an alternate compliance sampling point as approved by DHH on a case-by-case basis).

1. The highest individual turbidity measurement determined within each 4 hour monitoring period for each day that the system is in operation. Suppliers operating treatment facilities continuously shall report the highest individual turbidity measurement for each of the following 4 hour monitoring periods:

- a. 12:01 am - 4:00 am;
- b. 4:01 am - 8:00 am;
- c. 8:01 am - 12:00 pm (noon);
- d. 12:01 pm - 4:00 pm;
- e. 4:01 pm - 8:00 pm;
- f. 8:01 pm - 12:00 am (midnight).

NOTE: Suppliers which do not operate their treatment facilities continuously shall utilize these same time periods, as applicable, for reporting purposes. Times when there is no combined filter effluent available for monitoring, such as when the plant is not in operation, shall also be recorded by the supplier and such events shall be clearly identified and reported on the monthly report.

2. The number and percent of turbidity measurements reported under Paragraph 1 of this Subsection which are less than or equal to the performance standard specified for each filtration technology in §1115 of this Chapter, or as required for an alternative filtration technology.

3. The maximum daily raw water turbidity.

4. For public water systems using surface water or GWUDISW which serve at least 10,000 individuals and

utilize conventional or direct filtration treatment, the monthly report shall advise whether or not combined filter effluent turbidity monitoring has been conducted continuously and whether or not the measurements were recorded every 15 minutes. The monthly report shall also indicate the date and time when there is a failure in the continuous turbidity monitoring equipment or plant out of service as well as the date and time that such equipment/plant was placed back into service.

5. At the special request of the state health officer on a case-by-case basis, the supplier shall also provide an additional report listing the date and value of any other combined filter effluent turbidity measurement recorded by the supplier which exceeded the performance levels specified in §1115 of this Chapter and any corresponding raw water turbidity levels.

C. Disinfection Monitoring Results. The monthly report shall include the following disinfection monitoring results.

1. The date and duration of each instance when the disinfectant residual in water supplied to the distribution system is less than 0.2 mg/l free chlorine or 0.4 mg/l total chlorine and when the DHH was notified of the occurrence.

2. The following information on samples taken from the distribution system:

- a. the number of samples where the disinfectant residual is measured;
- b. the number of samples where only the heterotrophic plate count (HPC) is measured;
- c. the number of measurements with no detectable disinfectant residual and no HPC is measured;
- d. the number of measurements with no detectable disinfectant residual and HPC is greater than 500 colony forming units per milliliter;
- e. the number of measurements where only HPC is measured and is greater than 500 colony forming units per milliliter.

D. Explanation of Cause of Violation. The monthly report shall include a written explanation of the cause of any violation of performance standards specified in §§1115, 1117, or 1119 and operating criteria specified in §1131 of this Chapter.

E. Individual Filter Turbidity Results/Additional Actions

1. For public water systems using surface water or GWUDISW which serve at least 10,000 individuals and utilizes conventional or direct filtration treatment, the monthly report shall advise whether or not individual filter turbidity monitoring has been conducted continuously and whether or not the measurements were recorded every 15 minutes. Such systems shall additionally report individual filter turbidity measurement results taken only if measurements demonstrate one or more of the following four exceedance conditions.

a. For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the system shall report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system shall either produce a filter profile for the filter within 7 days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

b. For any individual filter that has a measured turbidity level of greater than 0.5 NTU in two consecutive measurements taken 15 minutes apart at the end of the first 4 hours of continuous filter operation after the filter has been backwashed or otherwise taken off-line, the system shall report the filter number, the turbidity, and the date(s) on which the exceedance occurred. In addition, the system shall either produce a filter profile for the filter within seven days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

c. For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of three consecutive months, the system shall report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system shall conduct a self-assessment of the filter within 14 days of the exceedance and report that the self-assessment was conducted. The self-assessment shall consist of at least the following components: an in-depth evaluation of filter performance, including analysis of historical filtered water turbidity from the filter; development of a filter profile; identification and prioritization of factors limiting filter performance; evaluation of the applicability of corrections; and, preparation of a filter self-assessment report.

d. For any individual filter that has a measured turbidity level of greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of two consecutive months, the system shall report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system shall arrange for the conduct of a comprehensive performance evaluation (CPE) by DHH or a third party approved by DHH no later than 30 days following the exceedance and have the evaluation completed and submitted to DHH no later than 90 days following the exceedance. For systems experiencing multiple exceedances, only one CPE is adequate until that CPE has been completed and the appropriate corrective actions taken.

i. This CPE shall be considered a compliance CPE; thus, either or both of the following shall be considered a violation(s) of this Chapter:

(a). failure to respond in writing to performance-limiting factors identified in the CPE within 45 days after receipt of the report, indicating how and on what schedule the system will address performance-limiting factors noted in the report; or

(b). failure to correct the performance-limiting factors identified in the CPE within a time schedule acceptable to DHH.

2. When a filter profile/obvious reason, self-assessment, or CPE has been triggered by the turbidity results of an individual filter, the following additional information for such filter shall be reported in the monthly report.

a. Data recorded relative to the occurrence of a failure in the continuous turbidity monitoring equipment for the affected individual filter or filter out of service conditions, the identity of the individual filter, the date and time of such equipment failure or out of service conditions

as well as the date and time that the equipment and/or filter was placed back into service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1137. Disinfection Profiling Report

A. Public water systems subject to the requirements of §1127.A of this Chapter shall submit to DHH a printed report on the initial 12 consecutive months of disinfection profiling data (including daily individual spreadsheets containing the monitoring data, CT computation, and total log inactivation data) and in monthly/yearly graphical profile form as required under §1127 of this Chapter. This disinfection profiling report is due on no later than *[45 calendar days after this rule has been in effect for 12 full months]*.

B. On a case-by-case basis, DHH may accept existing operational data in lieu of the requirements of Subsection A of this Section if DHH determines that such data is substantially equivalent to data required to be collected under §1127 of this Chapter. Such data shall be representative of inactivation through the entire treatment plant and not just of certain treatment segments.

C. Following the submittal of the initial 12 consecutive month period report required under Subsection A of this Section, nothing herein shall be construed to prohibit DHH from requiring the public water system to submit a more current disinfection profiling data set on a case-by-case basis (e.g., when a significant change to the disinfection practice is proposed, etc.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Subchapter F. Public Notification

§1139. Consumer Notification

A. Treatment Technique/Performance Standard Violations. The supplier shall notify persons served by the system whenever there is a failure to comply with the treatment technique requirements specified in §1113 or performance standards specified in §§1115, 1117, or 1119 of this Chapter. The notification shall be given in a manner approved by the DHH, and shall include the following mandatory language:

1. "The La. Department of Health and Hospitals (DHH) sets drinking water standards and has determined that the presence of microbiological contaminants are a health concern at certain levels of exposure. If water is inadequately treated, microbiological contaminants in that water may cause disease. Disease symptoms may include diarrhea, cramps, nausea, and possibly jaundice, and any associated headaches and fatigue. These symptoms, however are not just associated with disease-causing organisms in drinking water, but also may be caused by a number of factors other than your drinking water. DHH has set enforceable requirements for treating drinking water to reduce the risk of these adverse health effects. Treatment such as filtering and disinfecting the water removes or destroys microbiological contaminants. Drinking water which is treated to meet DHH requirements is associated with little to none of this risk and should be considered safe."

2. When there is a failure to comply with a treatment technique requirement or performance standard as required in Subsection A of this Section, the supplier shall provide public notification in a daily or weekly newspaper serving the area as soon as possible but no later than 14 days after the violation or failure. Where newspaper notice is not feasible for a non-community water system, continuous posting may be substituted; however, such notice shall remain posted for a minimum of at least 7 days. In addition to newspaper notice, a notice shall also be provided to the consumers by direct mail or hand delivery within 45 days after the violation or failure.

B. Monitoring Violations. The supplier shall notify persons served by the system in the manner approved by DHH whenever there is a failure to comply with the monitoring requirements specified in §§1123 or 1125 of this Chapter. When there is a failure to comply with the monitoring requirements specified in §§1123 or 1125 of this Chapter, the supplier shall provide public notification in a daily or weekly newspaper serving the area within 3 months of the violation or failure. Where newspaper notice is not feasible for a non-community water system, continuous posting in conspicuous places within the area served by the system may be substituted; however, such notice shall remain posted for a minimum of at least 7 days. In addition to newspaper notice, a notice shall also be provided to the consumers by direct mail or hand delivery within 3 months after the violation or failure.

C. Acute Violations. When:

1. an event occurs which may affect the ability of the treatment plant to produce safe, potable water as specified under §1133.A.6 of this Chapter;

2. a waterborne disease outbreak occurs as specified under §1133.A.7 of this Chapter;

3. the combined filter effluent turbidity level exceeds 5.0 NTU; or,

4. other conditions/violations which are deemed by the state health officer, acting personally, as posing an acute risk to human health exist or occur;

5. the supplier shall furnish a notice to radio and television stations serving the area as soon as possible but not later than 24 hours after awareness of the incident by the supplier. The supplier shall also provide public notification in a daily or weekly newspaper serving the area as soon as possible but no later than 14 days after the violation or failure. In addition to newspaper notice, a notice shall also be provided to the consumers by direct mail or hand delivery within 45 days after the violation or failure.

EXCEPTION: Where furnishing a notice to radio and television stations, newspaper notice, or mailing is deemed not feasible for a non-community water system, continuous posting may be substituted; however, such notice shall remain posted for a minimum of at least 7 days.

D. Public Notice Verification. Systems required to provide public notification shall otherwise be required to comply with the requirements of 313 of this Part, including, but not limited to, submission of public notice verification to the State Health Officer within 10 days subsequent to the completion of public notification.

AUTHORITY NOTE: Promulgated in accordance with RS. 40:4 (A)(8) and 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Family Impact Statement

1. The Effect on the Stability of the Family. We do not anticipate any effect on the stability of the family as a result of this proposed rule.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. We do not anticipate any effect on the authority and rights of parents regarding the education and supervision of their children as a result of this proposed rule.

3. The Effect on the Functioning of the Family. We do not anticipate any effect on the functioning of the family as a result of this proposed rule.

4. The Effect on Family Earnings and Family Budget. No significant impact on family earnings is predicted as a result of this rule. Assuming that a public water system using surface water or ground water under the direct influence of surface water as its source of water supply (and serves at least 10,000 people), decides to increase rates for all of its customers served by the system in order to reimburse itself for any additional expenses incurred by the proposed rule, any increase in the individual homeowner's water bill is expected to be of an insignificant amount. It is estimated that 92 percent of households will incur less than a cost of \$1 per month, and 7 percent of households will face a cost increase between \$1 and \$5 per month according to the EPA (Federal Register, Vol. 63, No. 241, Wed., Dec. 16, 1998). Economic benefits of the proposed rule derive from the increased level of protection to public health. The primary goal of this rule is to improve public health by increasing the level of protection from exposure to *Cryptosporidium* and other pathogens found in surface water sources. Prevention of cases of cryptosporidiosis and other intestinal diseases will cause the family to save money on medical care, medicines, etc.

5. The Effect on the Behavior and Personal Responsibility of Children. We do not anticipate any direct effect on the behavior and personal responsibility of children as a result of this proposed rule.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. We do not anticipate any effect on the ability of the family functioning as a result of this proposed rule. Local governmental units which own, manage, and/or operate a PWS using surface water or ground water under the direct influence of surface water (GWUDISW) as its source of water supply and serves at least 10,000 people may determine a need to increase their revenue collections (*i.e.*, increase water bills) to cover the cost of complying with the proposed rule.

DHH-OPH will conduct a public hearing at 10 a.m. on Tuesday, August 27, 2002, in Room 118 of the Blanche Appleby Computer Complex Building (on the Jimmy Swaggart Ministries Campus), 6867 Bluebonnet Blvd., Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

In addition, all interested persons are invited to submit written comments on the proposed rule. Such comments

must be received no later than Friday, August 30, 2002 at COB, 4:30p.m., and should be addressed to R. Douglas Vincent, Chief, Engineering Services Section, Center for Environmental Health, Office of Public Health, 6867 Bluebonnet Blvd., Box 3, Baton Rouge, LA 70810, or faxed to (225) 765-5040.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Interim Safe Drinking Water Program Enhanced Surface Water Treatment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Department of Health and Hospitals, Office of Public Health (DHH-OPH) has determined that 27 public water systems (PWSs) within Louisiana will be affected by the major provisions of the federally mandated rule. Twenty-six of these systems are owned by local governmental units. The one remaining system is run under a franchise agreement, with the franchiser being a local governmental unit. The estimated annualized cost to all of the 27 affected Louisiana utilities is \$4.074 million which includes treatment, start-up and on-going implementation, monitoring, operation and maintenance, and capital costs.

The estimated annualized cost to DHH-OPH is \$224,000 which includes start-up and monitoring costs, such as travel, supplies, communication, and postage, as well as additional review time required by staff to monitor the public water systems compliance with the federally mandated rule. In addition, DHH-OPH will have to pay a total of approximately \$5,400 in FY2002-03 funds to the Office of the State Register to have the Notice of Intent and the final rule published in the *Louisiana Register*.

No staffing costs to DHH-OPH are anticipated since existing staffing is currently sufficient to implement the rule as proposed (currently will affect 27 of the approximately 70 surface water systems in the state). However, within the next 18-42 months, an additional federal mandate will require the OPH to adopt a similar rule applicable to approximately an additional 43 smaller surface water systems. Additional staff may be required at that time to adequately implement the rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State or local governmental units which own, manage, and/or operate a PWS using surface water or ground water under the direct influence of surface water (GWUDISW) as its source of water supply and serves at least 10,000 people may determine a need to increase their revenue collections (*i.e.*, increase water bills) to cover the cost of complying with this federally mandated rule; however, if such increases are warranted, they will be warranted regardless whether or not this equivalent state rule is adopted since such systems are already required (and will continue to be required) to comply under the existing federal IESWTR.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

EPA has estimated that 92 percent of the households will incur less than a cost of \$1.00 per month and seven percent will face an increase in cost between \$1.00 to \$5.00 per month. The actual effect on revenue collections is hard to predict due to variables in the applicable requirements based upon various sized system.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will likely cause an increase in competition to hire and retain qualified and certified water plant operators. The rule will require water plant operators to become more knowledgeable of plant processes and controls. The more competent and qualified an operator is, the higher will be the competition to hire and retain him/her.

In addition, the proposed rule mandates more automation within the treatment plant. This will cause an increase in employment to install and maintain such automated systems.

Madeline McAndrew
Assistant Secretary
0207#044

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Labor
Office of Workforce Development**

**Customized Training Fund
(LAC 40:XVI.105)**

Notice is hereby given, in accordance with R.S. 49:905 et seq. that the Louisiana Department of Labor, pursuant to authority vested in the Department by R.S. 23:1514 and in accordance with applicable provisions of the Administrative Procedure Act, proposes to amend rules governing the workforce development training account, LAC 40:XVI.105, to provide for the requirements for approval of applications requesting funds in excess of 5 percent of the available funds during a fiscal year.

**Title 40
LABOR AND EMPLOYMENT
Part XVI. Customized Training**

§105. Criteria

A. - B. ...

C.1. No single employer or consortium shall receive training funds more than once in a 24-month time period. No single employer or consortium shall receive more than 5 percent of the total funds available to the program during a fiscal year. An employer with multiple operation sites and a single unemployment insurance tax identification number shall be limited to a single application which may encompass training at the various sites, as long as the amount awarded under the application does not exceed the maximum award amount. When an employer has more than one site and each site maintains a different unemployment insurance tax identification number, the employer may apply for a separate training award under each tax identification number.

2. An employer or consortium can request a grant award in excess of 5 percent of the total funds available to the program in a fiscal year. Such grant award may be approved at the discretion of the Secretary of Labor when the employer or consortium submits satisfactory documentation which allows for a determination that the training provided to employees of the employer or consortium will result in a substantial economic impact in

the state. In addition, the employer or consortium's application must meet the following conditions.

a. The wages of individuals to be trained with the funds will be increased at the completion of the training.

b. The additional funds will be used to allow for a significant increase in the number of individuals to be trained.

c. The employer or consortium will provide a dollar-for-dollar match of the funds provided in the grant award to assist with the total cost of the training, any activities related to the grant award or any economic development activities that can be verified by statistical data from a recognized state or federal source.

D. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended by the Department of Labor, Office of Workforce Development, LR 26:1630 (August 2000), amended by the Department of Labor, Office of Workforce Development, LR 28:

Family Impact Statement

1. The Effect on the Stability of the Family. The proposed amendments to the Rules on the Workforce Development Training Fund/Customized Training Fund will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. The proposed amendments to the Rules on the Workforce Development Training Fund/Customized training Fund will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed amendments to the Rules on the Workforce Development Training Fund/Customized Training Fund will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed amendments to the Rules on the Workforce Development Training Fund/Customized Training Fund may affect family earnings and the family budget of those individuals that participate in and are trained under the Incumbent Worker Training Program. These individuals should receive a skill upgrade and should receive an increase in position and/or pay after the completion of the customized training.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed amendments to the Rules on the Workforce Development Training Fund/Customized Training Fund will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed amendments to the Rules on the Workforce Development Training Fund/Customized Training Fund will have no effect on the ability of the family or a local government to perform any functions.

Dawn Romero Watson
Secretary of Labor

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Customized Training Fund

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Act 1053 of the 1997 Regular Legislative Session established the Workforce Development Training Account. During the 1999 Regular Legislative Session, the legislature increased the appropriation into this account to be used for customized training from \$6,000,000 to \$50,000,000. Although these Rules are not responsible for the additional expenditures, the proposed change should facilitate the operation of the program in an effective and efficient manner. In part, this Rule has been proposed to clarify when applications that seek approval of grant awards in excess of 5 percent of the total funds available to the program in a fiscal year will be approved by the Secretary of Labor. The Department of Labor estimates that there will be no additional administrative costs associated with the implementation of the proposed Rule amendment.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no direct effect on revenue collections of state or local governmental units. There could be an indirect positive impact if the program is successful.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that the full \$50,000,000, less administrative costs, will be distributed among eligible applicants which will include public and/or private training providers along with interested employers or consortiums of employers who have operated in the state for at least three years. The direct economic benefit will be those savings provided to the applicant through the state funded training program. Thus, an eligible applicant will be subsidized for a portion of the funding necessary to train its employees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Workforce Development Training Account should not significantly affect competition among those awarded grants for customized training, but will provide some incremental cost advantage to successful applicants compared to entities which do not receive the funding. Employees of organizations benefiting from the fund will receive industry standard training thereby allowing them to be more productive and efficient. Also, as incumbent workers are trained and promoted, employment opportunities for existing employees and potential employees will increase.

Dawn Romero Watson
Secretary
0207#066

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Definition of Tangible Personal Property
(LAC 61:I.4301)**

Under the authority of R.S. 47:301 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4301 relative to the definition of *tangible personal property* for sales tax purposes.

These proposed amendments provide guidance regarding the definition of *tangible personal property* in R.S. 47:301(16) and describe items included in and excluded from that definition.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 43. Sales and Use Tax

§4301. Definitions

A. - C. ...

Tangible Personal Property

a. R.S. 47:301(16)(a) defines *tangible personal property* as personal property that can be seen, weighed, measured, felt, touched, or is perceptible to the senses. The Louisiana Supreme Court has ruled that *tangible personal property* is equivalent to corporeal movable property as defined in Article 471 of the Louisiana Civil Code. The Louisiana Civil Code describes corporeal movable property as things that physically exist and normally move or can be moved from one place to another. Examples of *tangible personal property* include but are not limited to:

- i. durable goods such as appliances, vehicles, and furniture;
- ii. consumable goods such as food, cleaning supplies, and medicines;
- iii. utilities such as electricity, water, and natural gas; and
- iv. digital or electronic products such as "canned" computer software, electronic files, and "on demand" audio and video downloads.

b. Prepaid telephone cards and authorization numbers (for state sales and use tax purposes) and work products consisting of the creation, modification, updating, or licensing of canned computer software are specifically defined as *tangible personal property* by law.

c. Repairs of machinery, appliances, and equipment that have been declared immovable under Article 467 of the Louisiana Civil Code and things that have been separated from land, buildings, or other constructions permanently attached to the ground or their component parts as defined by Article 466 of the Louisiana Civil Code are treated as taxable repairs of *tangible personal property* under R.S. 47:301(14)(g).

i. Things are considered separated from an immovable when they are detached and repaired at a location off the customer's immediate property where the immovable is located or at the repair vendor's facility, even if that facility is on property owned, leased, or occupied by the customer. If the thing is detached from the immovable and repaired on the customer's immediate property, it is not considered separated from the immovable and the repair would not be subject to tax.

ii. The customer's immediate property is the tract of land that is owned, leased, or occupied by the customer where the immovable is located.

iii. Tracts of land owned, leased, or occupied by the customer that are separated only by a public road or right-of-way from the land where the immovable is located are also considered the customer's immediate property.

d. Tangible personal property does not include:

i. incorporeal property such as patents, copyrights, rights of inheritance, servitudes, and other legal rights or obligations;

ii. work products presented in a tangible form that have worth because of the technical or professional skills of the seller. Work products are considered non-taxable technical or professional services if the tangible personal property delivered to the client is insignificant in comparison to the services performed and there is a distinction between the value of the intangible content of the service and the tangible medium on which it is transferred. These do not include items that have intrinsic value, like works of art, photographs, or videos. Also, documents that are prepared or reproduced without modification for sale to multiple users are considered sales of tangible personal property. Examples of sales of technical or professional services that are transmitted to the customer in the form of tangible personal property include but are not limited to:

- (a). audience, opinion, or marketing surveys;
- (b). research or study group reports;
- (c). business plans; and
- (d). investment analysis statements.

iii. immovable property defined by the Louisiana Civil Code, which includes:

- (a). tracts of land (La. Civil Code Article 462);
- (b). component parts of a tract of land when they belong to the owner of the land (La. Civil Code Article 463);
- (c). buildings and standing timber even when owned by someone other than the owner of the land (La. Civil Code Article 464);

(d). things, such as building materials, incorporated into a tract of land or incorporated into a building or other construction that belongs to the owner of the land and is an integral part of the immovable (La. Civil Code Article 465);

(e). things permanently affixed to a building or other construction so that they cannot be removed without substantially damaging them or the immovable to which they are attached (La. Civil Code Article 466); and,

(f). except when being repaired as defined by R.S. 47:301(14)(g), machinery, appliances, and, equipment that have been declared immovable by the owner in the parish conveyance records (La. Civil Code Article 467).

e. For sales tax purposes, buildings are structures that are permanently affixed to the ground, not necessarily intended for habitation, and include, but are not limited to, office buildings, homes, apartments, stores, and permanent offshore drilling platforms.

f. Constructions, other than buildings, permanently attached to the land are movables when they belong to someone other than the owner of the land. Examples of this include, but are not limited to, towers, signs, and fences. However, constructions other than buildings installed on land where the owner of the land provides a perpetual servitude (La. Civil Code Article 639) or right of way, such as transmission lines as defined by the Federal Energy Regulatory Commission or the Louisiana Public Service Commission (except for lines between a wellhead and a tank battery), are treated as immovable property for sales tax purposes.

g. Items specifically excluded from the definition of *tangible personal property* include:

i. stocks, bonds, notes, or other obligations or securities;

ii. gold, silver, or numismatic coins of any value;

iii. platinum, gold, or silver bullion having a total value of \$1,000 or more;

iv. proprietary geophysical survey information or geophysical data analysis furnished under a restrictive use agreement even if transferred in the form of tangible personal property;

v. parts and services used in the repairs of motor vehicles if all of the following conditions are met:

(a). the repair is performed by a dealer licensed by the Louisiana Motor Vehicle Commission or the Louisiana Used Motor Vehicle and Parts Commission;

(b). the repair is performed subsequent to the lapse of an original warranty that was included in the taxable price of the vehicle by the manufacturer or the seller;

(c). the repair is performed at no charge to the owner; and

(d). the repair charge is not paid by an extended warranty plan that was purchased separately.

vi. pharmaceuticals administered to livestock used for agricultural purposes as defined by the Louisiana Department of Agriculture and Forestry under LAC 7:XXIII.103; and

vii. work products of persons licensed under Title 37 of the Louisiana Revised Statutes such as legal documents prepared by an attorney, financial statements prepared by an accountant, and drawings and plans prepared by an architect or engineer for a specific customer. When these items are reproduced without modification for sale to multiple users, they are considered *tangible personal property* and subject to sales and use tax.

h. Manufactured or mobile homes purchased in or delivered from another state to Louisiana after June 30, 2001, are excluded from the definition of *tangible personal property* for state sales and use taxes. Manufactured or mobile homes purchased in or delivered from another state to Louisiana after December 31, 2002, are excluded from the definition of *tangible personal property* for local sales and use taxes when the buyer certifies the manufactured or mobile home will be used as a residence.

i. For state sales taxes, the entire price paid for used manufactured or mobile homes and 54 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax.

ii. For local sales taxes when the buyer certifies the manufactured or mobile home will be used as a residence:

(a). after December 31, 2002, and before January 1, 2004C 25 percent of the price paid for used manufactured or mobile homes and 13 1/2 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax;

(b). after December 31, 2003, and before January 1, 2005C 50 percent of the price paid for used manufactured or mobile homes and 27 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax;

(c). after December 31, 2004, and before January 1, 2006C75 percent of the price paid for used manufactured or mobile homes and 40 1/2 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax; and

(d). after December 31, 2005Cthe entire price paid for used manufactured or mobile homes and 54 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax.

iii. Manufactured or mobile homes are structures that are transportable in one or more sections, built on a permanent chassis, designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and include plumbing, heating, air-conditioning, and electrical systems. The units must be either 8 body feet or more in width or 40 body feet or more in length in the traveling mode, or at least 320 square feet when erected on site. These size requirements may be disregarded if the manufacturer voluntarily certifies to the distributor or dealer at the time of delivery that the structure conforms to all applicable federal construction and safety standards for manufactured homes.

iv. Manufactured or mobile homes do not include modular homes that are not built on a chassis, self-propelled recreational vehicles, or travel trailers.

i. The sale or purchase of custom computer software on or after July 1, 2002, and before July 1, 2005, is partially excluded, and on or after July 1, 2005, completely excluded, from the definition of *tangible personal property* under R.S. 47:301(16)(h). This exclusion applies to state sales tax, the sales tax of political subdivisions whose boundaries are coterminous with the state, and the sales tax of political subdivisions whose boundaries are not coterminous with the state that exempt custom computer software by ordinance as authorized by R.S. 47:305.52. Custom computer software is software that is specifically written for a particular customer or that adapts prewritten or "canned" software to the needs of a particular customer.

i. Before July 1, 2002Cpurchases of prewritten or canned software that are incorporated into and resold as a component of custom computer software before July 1, 2002, are considered purchases of *tangible personal property* for resale. Use tax is not due on these purchases and any sales tax paid is eligible for tax credit against the tax collected on the retail sale of the custom software.

ii. Phase-In Period—the sales tax exclusion for custom computer software will be phased in at the rate of 25 percent per year beginning on July 1, 2002. During the phase-in period, purchases of prewritten or canned software that are incorporated into and resold as a component of custom computer software will be considered a purchase for resale according to the applicable sales tax exclusion percentage in effect at the time of sale. The custom software vendor must pay sales tax on the purchase price of the canned software and may claim tax credit for the percentage that is resold as *tangible personal property*. If 75 percent of the sales price of the custom computer software is taxable, the vendor is allowed a tax credit for 75 percent of tax paid on the canned software purchase. Conversely, if sales tax was not paid by the custom software vendor on the purchase

of canned software that is incorporated into custom software, use tax will be due on the percentage that is not considered to be a purchase for resale. The sales tax exclusion percentage will increase each year during the phase-in period and guidelines on the phase in of this exclusion will be published in a Revenue Ruling.

iii. July 1, 2005Cthe purchase of prewritten or canned software that is incorporated into and resold as a component of custom computer software sold on or after July 1, 2005, will be considered the purchase of *tangible personal property* for the personal use of the custom software vendor and subject to sales and use tax.

* * *

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Tuesday, August 27, 2002. A public hearing will be held on Thursday, August 29, 2002, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Definition of Tangible Personal Property

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this proposed regulation, which clarifies the definition of tangible personal property for sales tax purposes, will have no impact on state or local agencies' costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units as a result of this proposed regulation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed regulation would have no effect on the costs or economic benefits to vendors, manufacturers, or purchasers of tangible personal property in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0207#043

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Sales Tax on Property Used in Interstate Commerce
(LAC 61:I.4420)

Under the authority of R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.4420 relative to the sales tax exemption set forth in R.S. 47:305.50 for vehicles used in interstate commerce.

This proposed Rule provides guidance on the length of time vehicles must be used in interstate commerce in order to qualify for the exemption. It also discusses the consequences if a taxpayer claims the exemption at the time of purchase and subsequently does not qualify for the exemption.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 44. Sales and Use Tax Exemptions

§4420. Property Used in Interstate Commerce

A. R.S. 47:305.50(A) allows certain taxpayers to register trucks with a gross weight of 26,000 pounds or more, trailers to be used with such trucks, and contract carrier buses with the Office of Motor Vehicles of the Department of Public Safety and Corrections (OMV) without paying state or local sales or use tax. To qualify for the exemption, the taxpayer must be authorized by the United States Department of Transportation to engage in interstate for-hire transportation of freight, and the taxpayer must certify to the OMV that the property will be used at least 80 percent of its total mileage

in interstate commerce. The Department of Revenue and the OMV provide forms on which to make these certifications.

B. Any taxpayer who claims the exemption provided for in R.S. 47:305.50(A) must maintain records of the use of the property in order to document that the property is used for at least 80 percent of its total mileage in interstate commerce.

1. If the documentation indicates that the property was not used during the one-year period following the date of its purchase for the required 80 percent or more of its total mileage in interstate commerce, the taxpayer will not qualify for the exemption and state and local sales or use tax will be due on the amount paid for the property at the rate that was applicable on the date the property was purchased, plus interest from the date the property was purchased to the date of the tax payment. The state portion of the tax must be reported on a sales tax return provided by the Department of Revenue and paid to the Department of Revenue by the twentieth day of the month following the end of the one-year period in which the taxpayer fails to qualify for the exemption. The local portion of the tax must be reported and paid to the proper local taxing authority in accordance with their ordinances.

2. If, during any of the following one-year periods, the documentation indicates that the property was not used for the required 80 percent or more of its total mileage in interstate commerce, the taxpayer will no longer qualify for the exemption. If this occurs, state and local sales or use tax will be due on the lesser of the purchase price or fair market value of the property on the first day of the one-year period that it does not meet the 80 percent test. The tax will be calculated based on the rate in effect on the first day of the one-year period in which the taxpayer no longer qualifies for the exemption, plus interest from the date the tax is due to the date of tax payment. The state portion of the tax must be reported on a sales tax return provided by the Department of Revenue and paid to the Department of Revenue by the twentieth day of the month following the end of the one-year period in which the taxpayer no longer qualifies for the exemption. The local portion of the tax must be reported and paid to the proper local taxing authority in accordance with their ordinances.

C. If the taxpayer fails to provide proper documentation, it will be presumed that the taxpayer does not qualify for the exemption and state and local sales or use tax will be due in accordance with Subsection B above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed Rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

Wrap-Around Child Care Program
(LAC 67:III.Chapter 52)

3. The Effect on the Functioning of the Family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Monday, August 26, 2002. A public hearing will be held on Wednesday, August 28, 2002, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sales Tax on Property Used in Interstate
Commerce**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this proposed Rule will have no impact on state or local governmental units' cost. This proposal is being adopted to provide guidance on the sales tax exemption provided by R.S. 47:305.50 regarding vehicles used in interstate commerce.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units as a result of this proposed regulation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed regulation would have no costs or economic benefits to businesses that acquire trucks of 26,000 pounds or more, trailers, and contract carrier buses when at least 80 percent of their usage occurs in interstate commerce.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0207#041

H. Gordon Monk
Staff Director
Legislative Fiscal Office

The Department of Social Services, Office of Family Support, proposes to repeal Title 67, Part III, Chapter 52, the Wrap-Around Child Care Program.

The agency implemented this program effective June 1, 2000. Whereas, the program has had limited participation and has not served the public as originally intended, the agency does not anticipate extending or renewing contracts beyond the 01/02 State Fiscal Year. The proposed repeal will formally terminate the program effective at publication of the final Rule.

**Title 67
SOCIAL SERVICES**

**Subpart 12. Child Care Assistance
Chapter 52. Wrap-Around Child Care Program
§5201. Authority**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), repealed LR 28:

§5202. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), amended LR 27:1560 (September 2001), repealed LR 28:

§5203. Conditions of Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), amended LR 27:1560 (September 2001), repealed LR 28:

§5205. Income Limits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:1560 (September 2001), repealed LR 28:

§5207. Rights and Responsibilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), repealed LR 28:

§5209. Head Start Grantees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:1560 (September 2001), repealed LR 28:

§5211. Payments Effective May 1, 2001

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:431 (March 2001), amended LR 27:1561 (September 2001), repealed LR 28:

Family Impact Statement

The termination of the program will have no impact on the authority and rights of persons regarding the education and supervision of their children. (There were only about 100 children participating in the program statewide.)

Interested persons may submit written comments by August 28, 2002, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065. She is the responding authority to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on August 28, 2002, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Wrap-Around Child Care Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Based on FY 01/02 spending, the proposed rule which terminates the Wrap-Around Child Care Program will result in real savings of an estimated \$311,719 in TANF funds (the federal Temporary Assistance for Needy Families Block Grant to Louisiana). The agency, as well as two of the three participating (Head Start Program) contractors, determined that the program was not cost effective. The original budget projection provided as much as \$24 million for annual expenditures.

The only implementation cost for this Rule is an estimated \$160 for publishing the Notice of Intent and final Rule; this cost is routinely included in OFS' annual budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on revenue collections of state or local governmental units. The TANF Block Grant is not affected; funds will be diverted to other programs.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Some children will no longer receive child care services from this program. As of May 31, 2002, only about 25 children were being served statewide. Depending on personal circumstances, some families could be faced with paying child care costs. Only three Head Start programs had been serving as contractors in FY 01/02, so that these three have lost

funding/income from the Wrap-Around Child Care Program estimated at \$311,719 (based on the 01/02 fiscal year).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is assumed that since only one contractor would have continued to participate beyond June 30 and that program served only six children, that no more than one child care employee may not have continued employment in that Head Start summer program.

Ann S. Williamson
Assistant Secretary
0207#063

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

2003 Wild Turkey Season
(LAC 76:XIX.113, 115, and 117)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the turkey rules and regulations for the 2003 season.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§113. Turkey Hunting Regulations

A. Daily limit is one gobbler, two gobblers per season. Still hunting only. Use of dogs, baiting, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzleloading shotguns, using shot not larger than #2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited.

B. No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys.

C. A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed.

D. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closure.

E. The Department of Wildlife and Fisheries strongly discourages feeding agricultural grains to wild turkeys as this practice increases the risk of birds contracting potentially lethal diseases. Repeatedly placing grain in the same area may expose otherwise healthy birds to disease contaminated soils, grain containing lethal toxins and other diseased turkeys using the same feeding site. Properly distributed food plots (clovers, wheat, millet and chufa) are

far more desirable for turkeys and have the added benefit of appealing to a wide variety of wildlife.

F. It is unlawful to take from the wild or possess in captivity any live wild turkeys or their eggs. No pen raised turkeys from within or without the state shall be liberated (released) within the state.

G. All licensed turkey hunters are required to have a Turkey Stamp in their possession while turkey hunting in addition to basic and big game hunting licenses. Additionally, a WMA Hunting Permit is required of any person (age 18-59) who hunts on land administered by the Department of Wildlife and Fisheries, including Wildlife Management Areas, Wildlife Refuges, and Habitat Conservation Areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2263 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:

§115. Statewide Turkey Hunting Areas-Resident Game Birds and Animals

A. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

Species	Season Dates	Daily Bag Limit	Possession Limit
Turkey	See Schedule	1	2/season

B. 2003 Turkey Hunting Schedule

Area	Season Dates
A	March 22-April 20
B	March 22-April 13
C	March 22-March 30

C. 2003 Turkey Hunting SeasonCOpen Only in the Following Areas

1. Area A CMarch 22-April 20
 - a. All of the following parishes are open:
 - i. East Baton Rouge;
 - ii. East Feliciana;
 - iii. LaSalle;
 - iv. Livingston;
 - v. Natchitoches (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - vi. St. Helena;
 - vii. St. Tammany;
 - viii. Tangipahoa;
 - ix. Washington;
 - x. West Baton Rouge;
 - xi. West Feliciana (including Racourci Island).
 - b. Portions of the following parishes are also open:
 - i. Allen: North of LA 26 from DeRidder to the junction of LA 104 and north of LA 104;
 - ii. Avoyelles: That portion bounded on the east by the Atchafalaya River, on the north by Red River to the Brouillette Community, on the west by LA 452 from Brouillette to LA 1, on the south by LA 1, eastward to Hamburg, thence by the West Atchafalaya Basin Protection levee southward;
 - iii. Beauregard: North of LA 26 east of DeRidder, north and east of US 171-190 from the junction of LA 26 to

DeRidder, and north of US 190 from DeRidder to Texas state line;

iv. Caldwell: West of Ouachita River southward to Catahoula Parish line, east of LA 165 from LaSalle Parish line to the junction of LA 126, north of LA 126 westward to the Winn Parish line;

v. Catahoula: West of Ouachita River southward to LA 559 at Duty Ferry, north of LA 559 to LA 124, south and west of LA 124 from Duty Ferry to LA 8 at Harrisonburg and north of LA 8 to LA 126, north and east of LA 126. ALSO that portion lying east of LA 15;

vi. Concordia: That portion east of LA 15 and west of US 65 from its juncture with LA 15 at Clayton;

vii. Evangeline: North and west of LA 115, north of LA 106 from St. Landry to LA 13, west of LA 13 from Pine Prairie to Mamou and north of LA 104 west of Mamou;

viii. Franklin: That portion lying east of LA 17 and east of LA 15 from its juncture with LA 17 at Winnsboro;

ix. Grant: All of the parish except that portion of land that lies north of the Red River between US 71 and LA 8. Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates;

x. Iberville: West of LA 1. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;

xi. Madison: That portion lying west of US 65 and south of US 80;

xii. Pointe Coupee: All of the parish except that portion bounded on the north by LA Hwy. 1, from Innis to the junction of LA Hwy 417, on the west by LA Hwy. 417 southward toward McCrea, on the south by LA Hwy. 417 from McCrea to its juncture with Delhi Lane, then by Delhi Lane to LA Hwy. 418, then LA Hwy. 418 northward to LA Hwy. 1 at Innis. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries.

xiii. Rapides: All of the parish except that portion of lands that lies north of the Red River and south of US 71 from its juncture with the Red River northward to the Grant Parish line. Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest season dates;

xiv. Richland: That portion south of US 80 and east of LA 17;

xv. Sabine: That portion north of LA 6 from Toledo Bend Lake to Many; east of US 171 from Many to the Vernon Parish line;

xvi. St. Landry: That portion bounded on the west by the West Atchafalaya Basin Protection Levee and on the east by the Atchafalaya River. EXCEPTION: the Indian Bayou Area, see Federal Lands Hunting Schedule for Indian Bayou Area dates;

xvii. Upper St. Martin: All within the Atchafalaya Basin. EXCEPTIONS: Sherburne WMA and Indian Bayou Area, see WMA Turkey Hunting Schedule for special season dates on all state, federal and private lands within Sherburne WMA boundaries and see Federal Lands Hunting Schedule for Indian Bayou dates;

xviii. Tensas: That portion west of US 65 from the Concordia Parish line to its juncture with LA 128, north of LA 128 to St. Joseph; west and north of LA 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands east of the main channel of the Mississippi River;

xix. Vernon: That portion east of US 171 from the Sabine Parish line to the junction of LA 111, south of LA 111 westward to LA 392, and south of LA 392 westward to the Sabine Parish line. Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest season dates.

2. Area BCMarch 22-April 13

a. All of the following parishes are open:

- i. Bienville;
- ii. Bossier;
- iii. Claiborne;
- iv. DeSoto;
- v. Jackson;
- vi. Lincoln;
- vii. Red River;
- viii. Union;
- ix. Webster (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);

x. Winn (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates).

b. Portions of the following parishes are open:

i. Allen:

South and west of LA 26 from DeRidder to US 190 east of Elton, north of US 190 from the junction of LA 26 to Kinder and west of US 165 south of Kinder;

ii. Beauregard: South of LA 26 east of DeRidder, east of US 171 from the junction of LA 26 and south of LA 12 west of Ragley;

iii. Calcasieu: South of LA 12 east of DeQuincy, east of LA 27 from DeQuincy to I-10 and North of I-10 east of Sulphur;

iv. East Carroll: East of US 65 from Arkansas state line to Madison Parish line;

v. Jefferson Davis: North of US 190 from junction with LA 26 to Kinder, west of US 165 and north of I-10 west from junction of US 165;

vi. Ouachita: East of LA 143 from Union Parish line to US 80 in West Monroe, north of US 80 to LA 139, west of LA 139 to the Morehouse Parish line;

vii. Madison: South of US 80 and east of US 65 to Tensas Parish line and all lands lying east of the main channel of the Mississippi River;

viii. Morehouse: West of US 165 from the Arkansas line to Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to US 165, north of US 165 to LA 139, west of LA 139 to Ouachita Parish line.

3. Area CCMarch 22-March 30

a. All of the following parishes are open:

i. Caddo.

b. Portions of the following parishes are open:

i. Ascension: All east of the Mississippi River;

ii. Catahoula: That portion lying south of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to LA 8 at Harrisonburg, west of LA 8 to LA 913, west of LA 913 and LA 15 to Deer Creek;

iii. Concordia: North and east of Sugar Mill Chute (Concordia Parish) from the state line westward to Red River, east of Red River northward to Cocodrie Bayou, east of Cocodrie Bayou northward to US 84, south of US 84 eastward to LA 15 (Ferriday), east of LA 15 northward to

US 65 (Clayton), east of US 65 northward to Tensas Parish line;

iv. Franklin: That portion lying west of LA 17, from Richland Parish line to LA 577 at Crowville, north of LA 577 to LA 15 at Baskin, east of LA 15 to Big Creek, and south and east of Big Creek to Richland Parish line;

v. Iberville: All east of the Mississippi River;

vi. Richland: West of LA 17 from Franklin Parish line to Ringle Rd., south of Ringle Rd. to Ferguson Rd., south of Ferguson Rd. to Little Rd., south of Little Rd. to Big Creek, east of Big Creek to Franklin Parish line;

vii. Tensas: East and south of US 65 from Concordia Parish line to LA 128, south of LA 128 to St. Joseph, east and south of LA 605, 604 and 3078 northward to Port Gibson Ferry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2264 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:

**§117. 2003 Wildlife Management Area
TurkeyC Hunting Regulations**

A. General

1. The following rules and regulations concerning management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject the individual to citation and/or expulsion from the management area.

2. Only those Wildlife Management Areas listed are open to turkey hunting.

3. ATVs, ATCs and motorcycles cannot be left overnight on WMAs except in designated camping areas. ATVs are prohibited from two hours after sunset to 3 a.m. All roads including trails and roads designated as ATV only trails shall be closed to ATVs from March 1 through August 31 unless otherwise specified. ATV off-road or off-trail travel is prohibited. Certain trails may be open during this time period to provide access for fishing or other purposes. These trails will be marked by signs at the entrance of the trail. Otherwise, only walk-in hunting is permitted (bicycles permitted).

4. Bag limits on WMAs are part of the season bag limit. Only one turkey is allowed to be taken during special lottery hunts.

B. Permits

1. Self-Clearing Permits. All turkey hunts, including lottery hunts, are self-clearing. Hunters must check in daily by obtaining a permit from a self-clearing station prior to hunting. The self-clearing permit must be in the hunters possession while hunting. Upon completion of each days hunt, the hunter must check out by completing and depositing the hunter report portion of the permit in the check-out box at a self-clearing station before exiting the WMA.

2. Lottery Hunts. Bayou Macon, Boise-Vernon, Loggy Bayou, Sabine, Sherburne, Sicily Island, Tunica Hills, Union and West Bay WMAs are restricted to those persons selected as a result of the pre-application lottery. Special youth only lottery hunts will be held on Big Lake, Bens Creek, Fort Polk, Jackson-Bienville, Loggy Bayou, Sherburne, and West

Bay WMAs. Deadline for receiving applications for all lottery hunts is February 14, 2003. An application fee of \$5 must be sent with each application. Applicants may submit only one application and will be selected for one WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Contact any district office for applications. Hunters must abide by self-clearing permit requirements. Youths chosen for special youth only hunts will be guided by members of the Louisiana Chapter of the National Wild Turkey Federation. One family member may accompany the youth and guide, but may not hunt.

C. Wildlife Management Area Turkey Hunting Schedule*

WMA	Season Dates	Permit Requirements	Lottery Dates**
Bayou Macon	April 5-6	Self-Clearing	April 5-6
Bens Creek ¹	March 22-April 13	Self-Clearing	None
Big Lake	March 22-30	Self-Clearing	None
Bodcau	March 22-April 6	Self-Clearing	None
Boeuf	March 22-30	Self-Clearing	None
Boise Vernon	March 22-23 March 29-April 13	Self-Clearing	March 22-23 March 29-30
Camp Beauregard	March 22-April 6	Self-Clearing	None
Fort Polk	March 22-April 20	Self-Clearing	None
Grassy Lake	March 22-April 6	Self-Clearing	None
Hutchinson Creek	March 22-April 20	Self-Clearing	None
Jackson-Bienville	March 22-April 6	Self-Clearing	None
Little River	March 22-April 6	Self-clearing	None
Loggy Bayou	April 12-13	Self-Clearing	April 12-13
Pearl River	March 22-April 13	Self-Clearing	None
Peason Ridge	March 22-April 20	Self-Clearing	None
Plum Creek (formerly Georgia Pacific)	March 22-30	Self-Clearing	None
Pomme de Terre	March 22-April 6	Self-Clearing	None
Red River	March 22-30	Self-Clearing	None
Sabine	March 22-23 March 29-30	Self-Clearing	March 22-23 March 29-30
Sandy Hollow ¹	March 22-April 13	Self-Clearing	None
Sherburne ²	March 22-30	Self-Clearing	March 22-23 March 24-26
Sicily Island	March 22-30	Self-Clearing	March 22-24 March 25-27 March 28-30
Three Rivers	March 22-30	Self-Clearing	None
Tunica Hills South Tract	March 22-23 March 29-30 April 12-13 April 19-20	Self-Clearing	March 22-23 March 29-30 April 12-13 April 19-20
Tunica Hills Angola Tract ³	March 22-23 March 29-30 April 12-13 April 19-20	Self-Clearing	March 22-23 March 29-30 April 12-13 April 19-20
Union	April 5-6	Self-Clearing	April 5-6
Walnut Hills	March 22-April 20	Self-Clearing	None
West Bay	March 22-23 March 29-30	Self-Clearing	March 22-23 March 29-30

*Only those Wildlife Management Areas listed have a turkey hunting season. All other areas are closed.

**The deadline for receiving applications for all turkey Lottery Hunts on WMAs is February 14, 2003.

¹No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

²All turkeys harvested on Sherburne WMA must be weighed and checked at WMA headquarters.

³Scouting access limited. Contact Region 7 office for details (225) 765-2360.

D. Wildlife Management Area Youth Hunts

WMA	Lottery Youth Hunt Date
Bens Creek	March 15
Big Lake	March 15
Fort Polk	March 15
Jackson-Bienville	March 15
Loggy Bayou	April 5
Sherburne	March 15
West Bay	March 15

E. Federal Lands Turkey Hunting Schedule

1. Kisatchie National Forest (KNF) Turkey Hunting Schedule: Caney Ranger District, March 22-April 6; all remaining KNF lands, March 22-April 13 (including Catahoula and Red Dirt National Wildlife Management Preserves).

2. Indian Bayou Area (U.S. Army Corps of Engineers), Turkey Hunting Schedule: March 15 handicap only hunt, March 22-30, lottery hunt only on March 22-23 and March 24-26. Contact USCOE at 337-585-0853 for further information.

3. National Wildlife Refuges: Bogue Chitto NWR, March 22BApril 20; Lake Ophelia NWR, March 22-24 (lottery only), March 29-31(lottery only), April 1-6; Tensas NWR, March 15-16 (youth lottery only), March 22BApril 6. Contact the U.S. Fish and Wildlife Service for information regarding NWR hunts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 25:2265 (November 1999), amended LR 26:2636 (November 2000), LR 27:2272 (December 2001), LR 28:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments relative to the proposed Rule to Mr. Tommy Prickett, Administrator, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, until Thursday, September 5, 2002.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972.B.

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: 2003 Wild Turkey Season**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Establishment of hunting regulations is an annual process. The cost of implementing the proposed Rules to the state, aside

from staff time, is the production of the turkey regulation pamphlets and the issuance of turkey stamps. Implementation cost is estimated at \$17,531. The state agency currently has sufficient funds to implement the proposed action. Local governmental units will incur no implementation costs or savings from the proposed Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

License revenue from the sale of the turkey stamps is estimated to be \$54,343. Failure to adopt this Rule would result in no turkey hunting season and loss of state revenues from the sale of turkey stamps. In addition, loss of tax revenues of an undeterminable amount may occur to both state and local governmental units from the sale of supplies and equipment used in the pursuit of turkeys.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Approximately 10,000 resident and non-resident sportsmen and an undeterminable amount of sporting good distributors, retail outlets and landowners are directly affected by this proposal. Turkey hunters in Louisiana generate income to retail outlets, landowners and commercial operations that cater to the hunting public through hunting leases and the sale of outdoor

related equipment and associated items (food, fuel, clothing, shotgun shells, etc.). These land and business owners will be negatively impacted if turkey hunting seasons, rules and regulations are not established and promulgated. The actual amount of this impact is not estimable at this time. Both resident and non-resident turkey hunters will incur an additional cost of \$5.50 and \$20.50, respectively from the required purchase of a Wild Turkey Stamp.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting supports approximately 15,271 full and part-time jobs in Louisiana of which a proportion is directly related to turkey hunting. Failure to establish turkey hunting seasons may have a negative impact on some of these jobs. It is also anticipated that there will be little or no effect on competition in both the public and private sectors resulting from the proposed action.

James L. Patton
Undersecretary
0207#067

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY – JUNE 2002

LAC Title	Part.Section	Effect	Location LR 28 Month Page	LAC Title	Part.Section	Effect	Location LR 28 Month Page
1	III.Chapters 1-7	Adopted	Jan. 40		VII.727, 1503, 1505, 1901	Adopted	June 1494
4	III.Chapters 3,5	Adopted	June 1197	32	VII.1305	Repealed	June 1494
	VII.Chapter 11	Amended	May 1016		VII.1501	Amended	June 1494
	VII.1215, 1223, 1225	Amended	May 1016	33	I.3931	Amended	May 993
	VII.1741, 1743	Adopted	May 1018		III.501	Amended	May 997
	VII.1747, 1749	Adopted	May 1018		III.507, 1432, 3003, 5116, 5122	Amended	May 993
7	V.927, 929	Amended	June. 1170		III.2201	Adopted	Feb. 290
	XXI.101, 121	Amended	June 1170		III.2201	Repromulgated	Mar. 450
	XXIII.121, 125, 129	Amended	Jan. 39		III.5311	Amended	May 993
	XXV.119	Amended	June 1171		III.Chapter 6	Amended	Feb. 301
	XXXIX.1307, 1315	Amended	Feb. 267		III.621, 623, 625	Repealed	Feb. 301
10	III.701, 702	Amended	Mar. 482		III.5901	Amended	Mar. 463
	III.703	Repealed	Mar. 482		V.109, 321, 4901, 4909	Amended	May 998
	XV.1501-1509	Adopted	Feb. 307		V.109, 2601, 2603, 2605	Amended	June 1190
	XV.505	Adopted	Mar. 484		V.2213, 2215	Adopted	May 998
	XV.507	Repromulgated	June 1172		V.2602, 2607	Adopted	June 1190
13	XV.320	Amended	May 989		V.Chapter 30	Amended	May 993
22	I.107	Adopted	Jan. 94		V.30105, 30135, 30292, 30293	Amended	Jan. 83
	I.325	Adopted	Apr. 857		V.30294	Amended	Jan. 83
	I.326	Adopted	Apr. 861		V.30112, 30149, 30295, 30296	Adopted	Jan. 83
	I.359	Amended	Jan. 94		V.30298, 30351	Adopted	Jan. 83
	I.369	Amended	Apr. 856		V.30129	Repealed	Jan. 83
	I.401	Adopted	May 1026		V.Chapter 42	Adopted	May 998
	III.4703	Amended	Mar. 475		VII.301	Amended	Arp. 780
	V.105	Amended	May 1026		IX.1123	Amended	Mar. 461
	XV.Chapters 1-5	Adopted	June 1200		IX.Chapter 23	Amended	Mar. 463
28	I.103	Amended	Feb. 268		IX.2301, 2531, 2533	Amended	May 993
	I.107	Amended	June 1189		IX.3101-3113	Adopted	Apr. 780
	I.901	Amended	Feb. 269		XI.301, 303	Amended	Mar. 474
	I.901	Amended	Feb. 272		XV.403	Amended	May 1010
	I.901	Amended	May 991		XV.443	Adopted	May 1010
	I.901	Amended	June 1187		XV.541	Amended	Feb. 305
	I.903	Amended	Feb. 273	34	XV.1517	Amended	May 993
	I.903	Amended	Mar. 445		VII.307	Amended	Mar. 481
	I.903	Amended	Apr. 759	35	I.1797	Amended	May 1014
	I.903	Amended	Apr. 760		XI.9915, 9939	Amended	May 1013
	I.903	Amended	Apr. 763		XIII.11601-11625	Adopted	May 1014
	I.903	Amended	Apr. 765	37	XI.717, 723	Amended	Mar. 510
	I.903	Amended	May 990		XIII.Chapter 62	Adopted	Apr. 844
	I.904	Amended	June 1187	40	XV.Chapter 1	Amended	Mar. 511
	IV.301, 2103	Amended	Jan. 45	42	III.201	Adopted	Apr. 855
	IV.301, 503,507, 701, 705	Amended	Mar. 446		VII.2325, 22955	Amended	May 1028
	IV.301, 703, 803, 805, 903, 907	Amended	Apr. 772		IX.2174, 2931, 4103	Amended	May 1028
	IV.803, 903, 907, 1303, 1901	Amended	Mar. 446		IX.4103	Repromulgated	Feb. 344
	IV.911,1103, 1111, 1903, 2105	Amended	Apr. 772		XIII.2325, 2955	Amended	May 1028
	IV.1903, 2103, 2107	Amended	Mar. 446	43	I.701, 723	Amended	Mar. 516
	IV.2107, 2303, 2309	Amended	Apr. 772	46	XIX.319, 709	Amended	May 1013
	VI.107, 301	Amended	Mar. 450		XLI.1105	Amended	Jan. 46
	VI.107, 301, 303, 307, 311, 313	Amended	Apr. 777		XLVII.4513	Repromulgated	June 1205
	XXI.Chapters 1, 3, 5	Adopted	Feb. 274		LVII.113	Adopted	Feb. 308
	XXXVII.Chapters 1-35	Adopted	Feb. 276		LVII.518	Amended	Apr. 855
	XXXIX.905, 1301	Amended	June 1189		LVXI.3162	Adopted	Apr. 830
	LIII.Chapter 1-11	Adopted	June 1172		LIX.201, 203	Amended	Jan. 96
	LV.Chapters 1-11	Adopted	Apr. 765		LXVII.1507	Amended	Mar. 485
32	III.301	Amended	Mar. 480		LXVII.1903	Amended	Apr. 830
	III.405	Amended	Mar. 479		LXVII.2301	Amended	Apr. 829
	III.409, 501, 503, 505, 507	Amended	Mar. 479		LXVII.2501, 2515	Amended	Apr. 829
	III.509, 511, 513, 515, 517	Repealed	Mar. 479		LXVII.4501	Amended	Apr. 830
	V.301	Amended	Mar. 478		LXVII.4513	Amended	Apr. 487
	V.405	Amended	Mar. 476		LXVII.5205, 5323, 5329	Amended	Mar. 486
	V.701	Amended	Mar. 476		LXVII.5515, 5535, 5539	Amended	Mar. 485
	V.409, 501, 503, 505, 507	Amended	Mar. 477		LXXXV.403	Amended	June 1208
	V.509, 511, 513, 515, 517	Repealed	Mar. 477		LXXXV.1103, 1115	Amended	June 1208
	VII.Chapters 1-13	Amended	June 1494				

LAC Title	Part.Section	Effect	Location		LAC Title	Part.Section	Effect	Location		
			LR 28	Month Page				LR 28	Month Page	
46	LXXXVI.501, 503, 705, 1101	Amended	Mar.	490	61	I.4301	Amended	June	1488	
	LXXXVI.Chapter 6	Adopted	June	1476		I.4910	Amended	Apr.	866	
	LXXXVI.Chapters 16, 17	Adopted	Mar.	490		I.4908	Adopted	Feb.	347	
	C.101-107	Repealed	Jan.	82		I.5105	Adopted	Apr.	866	
48	I.Chapter 75	Amended	Mar.	508	I.5302	Adopted	Feb.	348		
	I.16103-16121	Amended	May	1019	V.309, 703, 907, 1103, 1503	Amended	Mar.	517		
	V.Chapter 22	Amended	Apr.	837	V.2503, 2705, 2707, 3103, 3301	Amended	Mar.	517		
	V.2210	Adopted	Apr.	837	V.3501	Amended	Mar.	517		
	V.Chapter 73	Adopted	Mar.	502	67	III.1235, 1949	Amended	May	1031	
	V.Chapter 73	Repromulgated	Apr.	839		III.1257	Adopted	Mar.	522	
	XI.3501	Amended	Jan.	46		III.1290, 5390, 5503	Adopted	Jan.	102	
				III.1291, 5391		Adopted	June	1492		
50	VII.1301-1309	Repealed	June	1472	III.2013	Amended	Jan.	103		
	VII.1301-1309	Adopted	June	1472	III.2015	Repealed	Jan.	103		
	XV.Chapters 31-43	Adopted	June	1466	III.2913	Amended	Jan.	102		
	XIX.Chapter 41	Adopted	May	1023	III.2529	Amended	Feb.	350		
	XIX.Chapter 43	Adopted	May	1023	III.5102, 5103, 5107, 5109	Amended	June	1490		
51	I-XXVIII	Adopted	June	1208	III.5107	Amended	Feb.	349		
	III.Chapter 8	Repromulgated	Feb.	344	III.5505-5545	Adopted	Feb.	350		
	III.813	Amended	Feb.	345	V.1301	Amended	Jan.	102		
55	I.1305, 1307, 1311, 1313	Amended	June	1482	70	I, III	Repromulgated	May	1031	
	III.315	Adopted	Feb.	346		III.5507, 5511, 5541, 5547	Adopted	Apr.	870	
	VII.317	Amended	June	1484		I.127	Amended	Apr.	871	
	XXIII.Chapters 1-47	Adopted	Feb.	311		I.134	Adopted	Apr.	871	
				I.505		Repealed	Apr.	874		
58	III.509-513, 519	Amended	May	1031	I.507, 513	Amended	Apr.	874		
					I.515	Amended	Apr.	876		
61	I.309	Amended	Jan.	97	III.Chapter 4	Adopted	Apr.	873		
	I.1302	Adopted	Jan.	101	73	I.Chapter 12	Amended	Mar.	522	
	I.1304	Adopted	Jan.	98		76	I.327	Adopted	Feb.	354
	I.1305	Adopted	Jan.	98			V.305	Amended	May	1033
	I.1307	Adopted	May	1030			VII.149	Amended	Jan.	104
	I.1401	Adopted	Apr.	868	VII.343		Amended	May	1032	
	I.1505	Adopted	June	1488	VII.519		Adopted	Mar.	524	
	I.1515	Adopted	June	1489	VII.703		Repromulgated	Feb.	354	
	I.4301	Amended	Feb.	348						

Potpourri

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Advanced Notice of Proposed Rulemaking Public Notification of Contamination (LAC 33:I.Chapter 1)(OS042)

The Louisiana Department of Environmental Quality is requesting comments on the following draft proposed regulation that will establish procedures for notifying those members of the public that the department determines are likely to be adversely affected by a release of hazardous substances or other pollutants.

It is the department's intent to incorporate the proposed regulations into the Office of the Secretary Regulations. This is a preliminary step in the rulemaking process. Official rulemaking will be initiated after review and consideration of the comments received on this advanced notice.

In addition to the technical content of the proposed regulation, for the purpose of preparing a Fiscal and Economic Impact Statement as required by law, we specifically request comments on the estimated cost to the public, particularly to property owners, lending institutions, real estate professionals, investors, and other interested parties who could be affected by this rule.

All interested persons are encouraged to submit written comments on the draft proposal. Comments are due by September 30, 2002, and must be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884; hand delivered to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge; sent to FAX number (225) 765-0389; or sent by email to patsyd@deq.state.la.us. Persons commenting should reference this document as Log #OS042.

If you have any questions regarding this document please contact Lou Buatt at (225) 765-0252 or Patsy Deaville at (225) 765-0399.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 1. Public Notification of Contamination

§101. Purpose

A. The purpose of this Chapter is to establish procedures for notifying those members of the public that the department determines are likely to be adversely affected by a release. This Chapter is in addition to any other requirements to provide notice, and nothing in this Chapter shall be construed to relieve the department or any other person from any other requirement set forth in Louisiana Administrative Code, Title 33. Furthermore, nothing in this Chapter shall prevent the responsible party, or the department, from providing additional means for public information and participation consistent with the provisions

of this Chapter or any other chapter of the Louisiana Administrative Code, Title 33.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§103. Applicability

A. This Chapter applies to releases that exceed the applicable federal or state health and safety standard and pose a risk of adverse human health effects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§105. Effective Date

A. These regulations shall become effective on [upon promulgationCdate to be inserted]. These regulations are only applicable to releases that occur on or after [insert effective date of regulations].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§107. Definitions

*Administrative Authority*Cthe secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

*Applicable Federal or State Health and Safety Standard*Csuch standards the department, based on its knowledge and expertise, determines are applicable to the release site.

*Corrective Action*Cactivities conducted to protect human health and the environment.

*Department*Cthe Department of Environmental Quality.

*Offsite*Careas beyond the property boundary of the release site.

*Person*Cany individual, municipality, public or private corporation, partnership, firm, the state of Louisiana, political subdivisions of the state of Louisiana, the United States government, and any agent or subdivision thereof or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, commissions, and interstate bodies.

*Release*Cthe accidental or intentional spilling, leaking, pumping, pouring, emitting, escaping, leaching, or dumping of hazardous substances or other pollutants into or on any land, air, water, or groundwater. A release shall not include a federal or state permitted release or other release authorized by the department.

*Release Site*Carea within the property boundary of the site where the release has occurred.

*Responsible Party*Cany person required by law or regulation to undertake corrective action at a site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

§109. Notification Requirements

A. The department shall provide notification to the public for sites within the department's regulatory jurisdiction, as reasonably determined by the department to be appropriate in accordance with the considerations identified in this Chapter.

B. The department shall issue notice of a release to persons to whom the department determines that the release poses a risk of adverse health effects.

C. The department may prioritize sites for provision of notice, as appropriate, according to the factors identified in this Section, although notice should in all events be given as soon as reasonably practicable.

D. The following chart provides the content and time frame for providing notification.

Public Notice Number	Triggering Event	When to Provide Notice to the Public	Contents of the Public Notice
1	When the department becomes aware of information and determines that a release is likely to have adverse offsite impacts that exceed the applicable federal or state health and safety standard	When an emergency or exigent circumstance exists, notice shall be given as soon as practicable under the circumstances by using any reasonable means or otherwise, within 30 days of the triggering event	Physical address of the release site Description of the contaminant Corrective action efforts Name, phone number, and address of contact person for both the responsible party and the department Other information the department determines is necessary to protect human health and the environment
2	When the department confirms offsite impact that exceeds the applicable federal or state health and safety standard and the department determines that the offsite impact poses a risk of adverse health effects	When an emergency or exigent circumstance exists, notice shall be given as soon as practicable under the circumstances by using any reasonable means or otherwise, within 30 days of the triggering event	Physical address of the release site Description of the contaminant Corrective action efforts Any potential adverse health effects Name, phone number, and address of contact person for both the responsible party and the department Other information the department determines is necessary to protect human health and the environment

E. Procedure for Providing Notice to the Public

1. The public notice required by this Chapter must be:
 - a. communicated in plain language;
 - b. printed and formatted in a manner that promotes the purpose of the notice when the notice is printed or posted;
 - c. free of language that nullifies the purpose of the notice;
 - d. displayed in a conspicuous way when printed or posted; and
 - e. sized 3 inches x 5 inches, at a minimum, in newspapers, parish journals, etc., when published in such publications.
2. The public notice shall be provided by means reasonably calculated to reach those members of the public directly affected by the release, as determined by the department, and may include, but not be limited to:
 - a. public notice in local newspapers;
 - b. block advertisements;
 - c. public service announcements;
 - d. direct mailings;
 - e. personal contacts;
 - f. press releases;
 - g. press conferences; and
 - h. posting on the department's website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:

James H. Brent, Ph.D.
Assistant Secretary

0207#038

POTPOURRI

**Department of Health and Hospitals
Board of Veterinary Medicine**

Fall/Winter Examination Dates

The Louisiana Board of Veterinary Medicine will administer the State Board Examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e., holiday, weather).

The Board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the National Board of Veterinary Medical Examiners (NBVME), formerly the

National Board Examination Committee (NBEC), as follows:

Test Window Date **Deadline To Apply**
 November 18 through Tuesday, September 17, 2002
 December 14, 2002

The Board will also accept applications for and administer the Veterinary Technician National Examination (VTNE) for state registration of veterinary technicians as follows:

Test Date **Deadline To Apply**
 Friday, January 17, 2003 Friday, November 22, 2002

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801 and by request via telephone at (225) 342-2176 or by e-mail at lbvm@eatel.net; application forms and information are also available on the website at www.lsbvm.org.

Kimberly B. Barbier
 Administrative Director

0207#010

POTPOURRI

**Department of Health and Hospitals
 Office of the Secretary
 Bureau of Health Services Financing**

Private Intermediate Care Facilities
 for the Mentally Retarded
 New Reimbursement Rates

Effective for dates of service July 1, 2002 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following reimbursement rates for private intermediate care facility services for the mentally retarded.

Level of Care	1-8 Beds per Diem Rate	1-8 Beds Monthly Rate	9-32 Beds per Diem Rate	9-32 Beds Monthly Rate	33+ Beds per Diem Rate	33+ Beds Monthly Rate
2	\$120.51	\$3,665.51	\$ 98.03	\$2,981.75	\$ 87.12	\$2,649.90
3	\$130.04	\$3,955.38	\$105.60	\$3,212.00	\$ 93.74	\$2,851.26
4	\$134.88	\$4,102.60	\$113.83	\$3,462.33	\$100.94	\$3,070.26
5	\$141.66	\$4,308.83	\$122.78	\$3,734.56	\$108.77	\$3,308.42
6	\$145.08	\$4,412.85	\$132.51	\$4,030.51	\$126.85	\$3,858.35
7	\$158.83	\$4,831.08	\$156.37	\$4,756.25	\$136.12	\$4,140.32

It should be noted that these rates include a provider fee of \$10.93.

Inquiries regarding these rates may be directed to the Director of the Rate and Audit Review Section, Bureau of

Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030.

David W. Hood
 Secretary

0207#058

POTPOURRI

**Department of Health and Hospitals
 Office of the Secretary
 Bureau of Health Services Financing**

Private Nursing Facilities
 New Reimbursement Rates

Effective for dates of service July 1, 2002 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following reimbursement rates for private nursing facility services.

Level of Care	Daily	Monthly
Skilled Nursing	\$ 88.71	\$2,698.26
Intermediate Care I	\$ 84.63	\$2,574.16
Intermediate Care II	\$ 84.63	\$2,574.16
Skilled Nursing C Infectious Disease	\$267.63	\$8,140.41
Skilled Nursing C Technology Dependent Care	\$223.25	\$6,790.52

It should be noted that the above rates include a provider fee of \$6.27.

Inquiries regarding these rates may be directed to the Director of the Rate and Audit Review Section, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030.

David W. Hood
 Secretary

0207#059

POTPOURRI

**Department of Health and Hospitals
 Office of the Secretary
 Bureau of Health Services Financing**

Public Hospitals
 Reimbursement Methodology
 Upper Payment Limit

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June of 1994, which established a prospective reimbursement methodology for inpatient services provided in non-state operated acute care hospitals (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology was subsequently amended in a Rule adopted in January of 1996 which established a weighted average per diem for each hospital peer group (*Louisiana Register*,

Volume 22, Number 1). The January 1996 Rule was later amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5).

The bureau adopted an Emergency Rule to utilize the revised upper payment limit for non-state government-owned or operated hospitals as set forth in the 42 CFR §447.272(c) and §447.321(c) which stated that "the aggregate Medicaid payments may not exceed 150 percent of a reasonable estimate of the amount that would be paid for the services furnished by the non-state government-operated hospitals under Medicare payment principles in Subchapter B of this Chapter" (*Louisiana Register*, Volume 27, Number 7). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services subsequently adopted a Rule effective May 14, 2002 to reduce the maximum aggregate Medicaid payments from 150 percent to 100 percent of a reasonable estimate of the amount that would be paid for the services furnished by the non-state government-operated hospitals under Medicare payment principles. As a result of the change in federal regulations and the allocation of funds by the legislature during the 2002 Regular Session, the bureau proposes to amend the definition of qualifying hospitals for enhancement pool payments contained in the Medicaid State Plan. This action is being taken to maximize the intergovernmental transfers generated for state fiscal year 2002-2003.

Effective July 1, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will submit an amendment to the Louisiana Medicaid State Plan to the Centers for Medicare and Medicaid Services amending the definition of qualifying hospitals for enhancement pool payments. A qualifying hospital for enhancement pool payments is a hospital that:

- a) is not recognized as a small rural hospital as defined in Section D.3.b. of the State Plan; and
- b) has the largest volume of Medicaid inpatient days of all non-state public hospitals per the hospital's latest filed cost report.

Implementation of this definition for a qualifying hospital shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

David W. Hood
Secretary

0207#060

POTPOURRI

**Department of Insurance
Property and Casualty Division**

Advisory Letter Number 02-01
June 24, 2002

To: All Property and Casualty Insurers Approved to Issue Policies Insuring Risks in Louisiana
Re: Notice of Cancellation
Notice of Nonrenewal

Statute And Regulation References: Title 22 of the Louisiana Revised Statutes §§2, 1211 et seq., and 1262.1

It has come to the attention of the Commissioner that surplus lines insurers are canceling and/or non-renewing insurance policies with little or no notice to the insured. Please be advised that the Commissioner finds that such conduct is not in the best interest of the policyholders or the citizens of Louisiana.

Pursuant to R.S. 22:1262.2, a surplus lines insurer may be removed from the list of approved unauthorized insurers if the Commissioner finds that it is not in the best interest of policyholders or the citizens of Louisiana for the insurer to be allowed to continue to do business in this state.

Unapproved insurers doing business in Louisiana should take note that the surplus lines market in the state is much broader than in other states. Indeed, the surplus lines market competes directly with the admitted market for many lines and/or classes of business. Therefore, the manner in which such insurers conduct business is of greater concern than might otherwise exist if the market were more limited in scope.

Surplus lines insurers are hereby advised that they should make every effort to give reasonable notice to their policyholders prior to canceling or non-renewing an insurance policy or risk removal from our white list. It is the opinion of the Commissioner that a minimum of 30 days is reasonable, unless the cancellation is for non-payment of premium, in which case notice of not less than 10 days would be reasonable as called for in R.S. 22:636 for admitted insurers.

Any questions regarding this Advisory Letter may be directed to Ms. Kathlee Hennigan, Director of the Property and Casualty Division, at khennigan@ldi.state.la.us or by telephone at 225-342-0073 or to C. Noël Wertz, Chief Attorney, Property and Casualty Section at nwertz@ldi.state.la.us. or by telephone at 225-342-4632.

J. Robert Wooley
Acting Commissioer

0207#033

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Smith Resources	Caddo Pine Island	S	Dickson Heirs	1	049611
Smith Resources	Caddo Pine Island	S	Glassell	1	050494
Smith Resources	Caddo Pine Island	S	Glassell	3	050814
Smith Resources	Caddo Pine Island	S	Washington	1	051432
Smith Resources	Caddo Pine Island	S	Washington	2	051433

Smith Resources	Caddo Pine Island	S	Washington	3	051550
Smith Resources	Caddo Pine Island	S	Dickson Heirs	2	051561
Smith Resources	Caddo Pine Island	S	Glassell	2	051823
Smith Resources	Caddo Pine Island	S	Glassell	4	052063
Smith Resources	Caddo Pine Island	S	Washington	4	052784
Smith Resources	Caddo Pine Island	S	Dickson Heirs	3	052882
Smith Resources	Caddo Pine Island	S	Glassell	5	053852
Smith Resources	Caddo Pine Island	S	Glassell	6	053853
Smith Resources	Caddo Pine Island	S	Dickson Heirs	14	054058
Smith Resources	Caddo Pine Island	S	Bessie Ross U2 SWD	1	059734
Smith Resources	Caddo Pine Island	S	Dickson Heirs	4	076940
Smith Resources	Caddo Pine Island	S	Dickson Heirs	5	076941
Smith Resources	Caddo Pine Island	S	Dickson Heirs	6	076942
Smith Resources	Caddo Pine Island	S	Dickson Heirs	7	076943
Smith Resources	Caddo Pine Island	S	Dickson Heirs	8	076944
Smith Resources	Caddo Pine Island	S	Dickson Heirs	9	076945
Smith Resources	Caddo Pine Island	S	Dickson Heirs	10	076946
Smith Resources	Caddo Pine Island	S	Dickson Heirs	11	076947
Smith Resources	Caddo Pine Island	S	W E Logan	1	080444
Smith Resources	Caddo Pine Island	S	W E Logan	2	081059
Smith Resources	Caddo Pine Island	S	W E Logan	3	081397
Smith Resources	Caddo Pine Island	S	Bessie Ross U2	3	085115
Smith Resources	Caddo Pine Island	S	W E Logan	5	086447
Smith Resources	Caddo Pine Island	S	W E Logan	6	089798
Smith Resources	Caddo Pine Island	S	Dickson Heirs	12	096563
Smith Resources	Caddo Pine Island	S	Dickson Heirs	13	115041
Smith Resources	Caddo Pine Island	S	Bessie Ross B	5	135276
Smith Resources	Caddo Pine Island	S	Bessie Ross B	6	135277
Smith Resources	Caddo Pine Island	S	Bessie Ross B	7	135278
Smith Resources	Caddo Pine Island	S	Bessie Ross B	8	135279
Smith Resources	Caddo Pine Island	S	Bessie Ross B	4	135719
Smith Resources	Caddo Pine Island	S	Bessie Ross B	3	135720
Smith Resources	Caddo Pine Island	S	Bessie Ross B	2	135721
Smith Resources	Caddo Pine Island	S	Bessie Ross B	1	135722
Smith Resources	Caddo Pine Island	S	Bessie Ross U2	2	140171
Smith Resources	Caddo Pine Island	S	Bessie Ross U2	1	140172

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Charles W. Anderson	Monroe	M	Anderson Et Al	A007	118015
La-La Oil Company	Tullos Urania	M	King	A-5	036255
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James H. Welsh
Commissioner

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ERCEmergency Rule
RCRule
NCNotice of Intent
CCCommittee Report
LCLegislation
PCPotpourri

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