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Executive Orders

EXECUTIVE ORDER KBB 04-01

Bond Allocation? Industrial Development
Board of the Parish of Ouachita, Inc.

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 2004 (hereafter "the 2004 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2004 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Industrial Development Board of the Parish of Ouachita, Inc., has requested an allocation from the 2004 Ceiling to finance the expansion and upgrade of a solid waste disposal facility originally permitted for non-hazardous and non-infectious construction demolition, wood, and yard Type III/IV waste (i.e., trash), including the acquisition, construction and development of additional facilities to enable the project known as White Oaks Landfill, LLC, to comply with the requirements of a permit modification to upgrade the landfill to accept Type I/II waste (i.e., garbage), within the parish of Ouachita, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE, I, KATHLEEN BABINEAUX BLANCO, 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 fromthe 2004 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
$3,000,000	Industrial Development Board of the Parish of Ouachita, Inc.	Consolidated Waste Industries, Inc.

SECTION 2: The allocation granted herein 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 allocation granted herein shall be valid and in full force and effect through December 31, 2004, provided that such bonds are delivered to the initial purchasers thereof on or before June 14, 2004.

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 allocation granted herein 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 16th day of March, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0404#018

EXECUTIVE ORDER KBB 04-02

Louisiana Interagency Action Council for the Homeless

WHEREAS, the number of homeless persons and families in the nation and this state has increased in recent years;

WHEREAS, the causes of homelessness are many and complex and homeless individuals have diverse needs;

WHEREAS, effective use of the state of Louisiana's resources and programs to alleviate the plight of homelessness requires coordination of efforts by interested persons, agencies, and organizations, both public and private, including participation at the federal, state, and local levels;

NOW THEREFORE I, KATHLEEN BABINEAUX BLANCO, 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 Louisiana Interagency Action Council for the Homeless (hereafter "Council") shall be reestablished and recreated within the executive department, Office of the Governor.

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

A. Conducting annual assessment and evaluation of service needs and resources for the homeless of the state of Louisiana;

B. Researching and assisting in the development of funding resources for the homeless;

C. Monitoring and evaluating assistance to homeless persons provided by all levels of government and the private sector;

D. Consulting and coordinating all activities with the Federal Interagency Council for the Homeless, HUD, and all other federal agencies that provide assistance to the homeless;

E. Monitoring the flow of information among separate service providers, government agencies, and/or appropriate authorities;

F. Disseminating timely information of federal, state, or private resources available to assist the homeless population;

G. Insuring the services for all homeless persons of the state of Louisiana are appropriately planned and coordinated, thereby reducing duplication among programs and activities by state agencies and other providers;

H. Recommending improvements to the service delivery system for the homeless, by submitting bi-annual reports of its activities to the governing bodies which represent the Council and also by detailing any and all actions taken by the Council to improve the provisions of services for the homeless; and

I. Participating in the development of all planning related to the McKinney-Vento Homeless Assistance Act, 42 U.S.C.A §11411;

SECTION 3: At least thirty (30) days prior to the opening of the legislative session, the Council shall submit its bi-annual report to the governor, the president of the Louisiana Senate, and the speaker of the Louisiana House of Representatives on the issues set forth in Section 2 of this Order.

SECTION 4: The Council shall be composed of a maximum of thirty-six (36) members who, unless otherwise specified, shall be appointed by and serve at the pleasure of the governor. The membership of the Council shall be selected as follows:

A. The governor, or the governor's designee;

B. The president of the Louisiana State Senate, or the president's designee;

C. The speaker of the Louisiana House of Representatives, or the speaker’s designee;

D. The secretary of the Department of Health and Hospitals, or the secretary's designee;

E. The secretary of the Department of Social Services, or the secretary's designee;

F. The secretary of the Department of Labor, or the secretary’s designee;

G. The superintendent of the Department of Education, or the superintendent's designee;

H. The director of the Bureau of Health Services Financing, Department of Health and Hospitals, or the director's designee;

I. The executive director of the Office of Public Health, Department of Health and Hospitals, or the executive director's designee;

J. The assistant secretary of the Office of Mental Health, Department of Health and Hospitals, or the assistant secretary's designee;

K. The assistant secretary of the Office for Citizens with Developmental Disabilities, Department of Health and Hospitals, or the assistant secretary’s designee;

L. The assistant secretary of the Office for Addictive Disorders, Department of Health and Hospitals, or the assistant secretary's designee;

M. The assistant secretary of the Office of Community Services, Department of Social Services, or the assistant secretary's designee;

N. The director of the Louisiana Rehabilitation Services, Department of Social Services, or the director's designee;

O. The assistant secretary of the Office of Family Support, Department of Social Services, or the assistant secretary's designee;

P. The assistant secretary of the Office of Adult Services, Department of Public Safety and Corrections, or the assistant secretary's designee;

Q. The assistant secretary of the Office of Youth Development, Department of Public Safety and Corrections, or the assistant secretary's designee;

R. The executive director of the Office of Elderly Affairs, Office of the Governor, or the executive director's designee;

S. The executive director of the Office of Veterans Affairs, Office of the Governor, or the executive director's designee;

T. The executive director of the Office on Women's Policy, Office of the Governor, or the executive director's designee;

U. The president of the Louisiana Housing Finance Agency, or the president's designee;

V. Two (2) representatives of the Drug Policy Board with expertise in the area of drug prevention and treatment;

W. One (1) representative of a Louisiana nonprofit legal services organization;

X. Two (2) representatives of local government agencies;

Y. Two (2) representatives of local advocacy groups for populations which are affected by homelessness;

Z. Three (3) representatives of providers of services to the homeless; and

AA. Four (4) members at-large.

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

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

SECTION 7:

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

B. Council 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.

C. Council members who are also a member of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance

SECTION 8: Support staff, facilities, and resources for the Council shall be provided by the various departments and/or agencies which form its membership.

SECTION 9: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the Council 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 25th day of March, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0404#019

EXECUTIVE ORDER KBB 04-03

Governor's Advisory Council on Disability Affairs

WHEREAS, the Governor's Advisory Council on Disability Affairs was originally established by executive order to monitor state compliance with the Americans with Disabilities Act and to advise the governor on the needs of individuals with disabilities and/or on other relative concerns;

WHEREAS, the state of Louisiana has unique needs regarding disabilities which require continued education among its citizens concerning the Americans with Disabilities Act;

WHEREAS, the state of Louisiana and its political subdivisions have an affirmative duty not to discriminate against individuals with disabilities; and

WHEREAS, it is in the best interests of the citizens of the state of Louisiana to continue the centralized and coordinated effort of compliance with the Americans with Disabilities Act by serving the Louisiana citizens with disabilities through the continuance of the Governor's Advisory Council on Disability Affairs;

NOW THEREFORE, I, KATHLEEN BABINEAUX BLANCO, 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 Governor's Advisory Council on Disability Affairs (hereafter "Council") is reestablished and recreated within the executive department, Office of the Governor, Office of Disability Affairs.

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

A. Advising the governor, through the Office of Disability Affairs, on issues of concern to the Louisiana citizens with disabilities;

B. Identifying the needs, issues, and solutions relative to persons with disabilities;

C. Assisting the Office of Disability Affairs, when requested, in the resolution of state disabilities issues; and

D. Providing education, communication, and networking services concerning disability issues and needs for all Louisiana citizens.

SECTION 3: On or before January 5, the Council shall submit to the governor annual reports regarding the issues set forth in Section 2 of this Order.

SECTION 4: The Council shall be composed of a maximum of thirty-six (36) members who, unless otherwise specified, shall be appointed by and serve at the pleasure of the governor. The Council members shall be selected as follows:

A. The governor, or the governor's designee;

B. The lieutenant governor, or the lieutenant governor's designee;

C. The attorney general, or the attorney general's designee;

D. The secretary of state, or the secretary's designee;

E. The state treasurer, or the state treasurer's designee;

F. The secretary of the Department of Health and Hospitals, or the secretary's designee;

G. The secretary of the Department of Labor, or the secretary's designee;

H. The secretary of the Department of Social Services, or the secretary's designee;

I. The secretary of the Department of Transportation and Development, or the secretary's designee;

J. The secretary of the Department of Wildlife and Fisheries, or the secretary's designee;

K. The commissioner of the Department of Agriculture and Forestry, or the commissioner's designee;

L. The commissioner of the Department of Insurance, or the commissioner's designee;

M. One (1) member of the Louisiana State Senate, designated by the president of the Louisiana Senate;

N. One (1) member of the Louisiana House of Representatives, designated by the speaker of the Louisiana House of Representatives;

O. The superintendent of the Department of Education, or the superintendent's designee;

P. The state fire marshal, or the state fire marshal's designee;

Q. The director of the Office of Elderly Affairs, or the director's designee;

R. The director of the Office of Facility Planning and Control, or the director's designee;

S. The chair of the Developmental Disabilities Council, or the chair's designee;

T. The chair of the Advocacy Center, or the chair's designee;

U. The chair of the Louisiana Assistive Technology Access Network, or the chair's designee;

V. The chair of the Louisiana Rehabilitation Council, or the chair's designee;

W. The chair of the Statewide Independent Living Council, or the chair's designee;

X. The chair of the Mental Health Planning Council, or the chair's designee;

Y. The executive director of The Arc of Louisiana, or the executive director's designee;

Z. One (1) representative of disability services from an institution of higher education; and

AA. Ten (10) at-large members who have disabilities or have family members with disabilities.

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

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

SECTION 7:

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

B. Council 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.

C. Council members who are also a member of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance.

SECTION 8: Support staff, facilities, and resources for the Council shall be provided by the Office of Disability Affairs, Office of the Governor.

SECTION 9: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the Council 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 25th day of March, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0404#020

EXECUTIVE ORDER KBB 04-04

Office of the First Gentleman

WHEREAS, the First Gentleman is the official host of the state of Louisiana and, as a result, the First Gentleman holds both private status and *de facto* state officer status;

WHEREAS, as the First Gentleman of Louisiana, Mr. Raymond "Coach" Blanco travels throughout Louisiana to promote its beautification and historic preservation, the health and safety of its inhabitants, and other worthy projects and causes, such as the Louisiana Governor's Mansion Foundation, litter prevention and elimination, inner city education, prisoner rehabilitation, and the protection of children's health, safety and welfare;

WHEREAS, as First Gentleman, Mr. Blanco welcomes visiting dignitaries, makes speeches and public service announcements, authors articles pertaining to his projects, holds press conferences and interviews, participates in charity events, and performs numerous other duties and activities at the Governor's request; and

WHEREAS, the numerous duties and activities of the First Gentleman place significant administrative demands on the office of the First Gentleman which necessitate that it be given formal recognition;

NOW THEREFORE I, KATHLEEN BABINEAUX BLANCO, 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 Office of the First Gentleman (hereafter "Office") is created and established within the executive department, Office of the Governor. The First Gentleman shall be an ambassador and a spokesperson for the state of Louisiana, and shall perform other duties as directed by the Governor.

SECTION 2: Support staff, office facilities, and reasonable operating expenses shall be provided to the Office by the executive department, Office of the Governor.

SECTION 3: The First Gentleman shall not receive compensation or a per diem. Nonetheless, he may receive reimbursement for actual travel expenses incurred in the representation of the Office, in accordance with state guidelines and procedures, contingent upon the availability of funds, and the approval of the Commissioner of Administration.

SECTION 4: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Office in implementing the provisions of this Order.

SECTION 5: Upon signature of the Governor, the provisions of this Order shall be made retroactive to January 12, 2004, and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or until 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 March, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0404#021

EXECUTIVE ORDER KBB 04-05

Louisiana Wild Caught Shrimp Industry
Trade Action Advisory Council

WHEREAS, the Louisiana Wild Caught Shrimp Industry Trade Action Advisory Council was originally established by executive order to create an advisory body and/or council that will consolidate its efforts to initiate a trade action to protect itself from unfair trade practices

utilized by foreign countries importing shrimp into the United States;

WHEREAS, the wild caught shrimp industry is an integral part of the state of Louisiana's history, culture, and economy and is a major component of the economy, providing employment and tax revenue for the state of Louisiana;

WHEREAS, certain foreign shrimp producing countries have utilized unfair trade practices that greatly damage the state's wild caught shrimp industry;

WHEREAS, funding sources and mechanisms must be developed in order to support a trade action for the protection of the domestic wild caught shrimp industry;

WHEREAS, the state of Louisiana supports a trade action by a consolidated wild caught shrimp industry in Louisiana and intends to assist in its success; and

WHEREAS, the citizens of the State of Louisiana will best be served by the continuance of an advisory council that will assist the state in its efforts to initiate trade actions to protect itself from unfair trade practices utilized by foreign countries importing shrimp into the United States;

NOW THEREFORE I, KATHLEEN BABINEAUX BLANCO, 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 Louisiana Wild Caught Shrimp Trade Action Advisory Council (hereafter "Council") is established within the executive department, Office of the Governor.

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

A. Supporting and assisting a trade action brought by a consolidated wild caught shrimp industry;

B. Exploring and developing funding sources and mechanisms to assist and support such trade action; and

C. Recommending proposed legislation to fund the trade action.

SECTION 3: On or before March 1, 2005, the Council shall submit a final report to the governor, and the secretary of the Department of Wildlife and Fisheries, on the issues set forth in Section 2 of this Order.

SECTION 4: The Council shall be composed of a maximum of thirteen (13) members who, unless otherwise specified, shall be appointed by and serve at the pleasure of the governor. The membership of the Council shall be selected as follows:

A. The governor, or the governor's designee;

B. The secretary of the Department of Wildlife and Fisheries, or the secretary's designee;

C. The president of the Louisiana Senate, or the president's designee;

D. The speaker of the Louisiana House of Representatives, or the speaker's designee;

E. The chair of the Senate Committee on Natural Resources, or the chair's designee;

F. The chair of the House Committee on Natural Resources, or the chair's designee;

G. Two (2) members appointed by the governor from a list of four (4) Louisiana residents nominated by the Louisiana Shrimp Association;

H. Two (2) members appointed by the governor from a list of four (4) Louisiana residents nominated by the Louisiana Shrimp Industry Coalition;

I. One (1) member appointed by the governor from a list of three (3) Louisiana residents nominated by the American Shrimp Processors Association;

J. One (1) member appointed by the governor from a list of three (3) Louisiana residents nominated by the secretary of the Department of Wildlife and Fisheries who possess a current gear and boat license; and

K. One (1) at-large member.

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

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

SECTION 7:

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

B. Council members who are employees or an elected public officials 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.

C. Council members who are also members of the Louisiana Legislature may seek a per diem from the Louisiana Senate or House of Representatives, as appropriate, for their attendance.

SECTION 8: Support staff, facilities, and resources for the Office shall be provided by the Department of Wildlife and Fisheries.

SECTION 9: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the Office 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 25th day of March, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0404#022

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences

Pesticide Restrictions (LAC 7:XXIII.143)

In accordance with the Administrative Procedure Act R.S. 49:953(B) and R.S. 3:3203(A), the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in adopting the following Rule governing the application of certain pesticides in certain parishes.

Currently LAC 7:XXIII.143.C prohibits the application of certain pesticides by commercial applicators between March 15 and September 15 in the parishes in Subsection C. Due to current weather and crop conditions the time frame for application of these pesticides needs to be extended from April 1, 2004 to September 15, 2004 to insure that farmland can be economically and properly prepared for crop planting. If the farmland cannot be properly prepared crops cannot be planted and subsequently harvested. Louisiana agriculture has been hit by adverse weather conditions for the last four years causing a severe adverse economic impact on Louisiana's economy. An inability to properly and timely plant crops this year will devastate Louisiana agriculture and Louisiana's economy

Therefore, the Commissioner of Agriculture and Forestry has determined that failure to extend the time frame for application of these pesticides in the parishes listed constitutes an imminent peril to the health, safety and welfare of the Louisiana agricultural community, the citizens of Louisiana and the economy of Louisiana.

This Rule becomes effective upon signature and will expire at 12:01 a.m. on September 15, 2004.

Title 7
AGRICULTURE AND ANIMALS
Part XXIII. Advisory Commission on Pesticides
Chapter 1. Advisory Commission on Pesticides
Subchapter I. Regulations Governing applications of Pesticides.
§143. Restrictions on Application of Certain Pesticides

A. - B. …

C. The pesticides listed in §143.B shall not be applied by commercial applicators between March 31, 2004 and September 15, 2004 in the parishes listed below.

1. Avoyelles	16. Morehouse
2. Bossier	17. Natchitoches
3. Caddo	18. Ouachita
4. Caldwell	19. Pointe Coupee
5. Catahoula	20. Rapides
6. Claiborne, Ward 4	21. Red River
7. Concordia	22. Richland
8. DeSoto, Ward 7	23. St. Landry
9. East Carroll	24. St. Martin, Ward 5
10. Evangeline Wards 1, 3 and 5	25. Tensas
11. Franklin	26. Union
12. Grant	27. West Carroll
13. Iberville Ward 9	28. West Baton Rouge Wards 5, 6, and 7
14. LaSalle	29. Winn, Ward 7

D. - P.6.a.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:189 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:1119 (September 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 27:1672 (October 2001), LR 30:

Bob Odom
Commissioner

0404#003

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences
Division of Pesticides and Environmental Programs

Pesticide Restrictions? Use of the Pesticide Icon
(LAC 7:XXIII.143)

In accordance with the Administrative Procedures Act R.S. 49:953(B) and R.S. 3:3203(A), the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in adopting the following Rule for the implementation of regulations governing the use of the pesticide, Icon (fipronil).

Icon is an essential pesticide in the control of rice pests. Without its use the rice crop in Louisiana is in imminent danger of being damaged by pests, to the extent that a substantial reduction in rice yield will result. Failure to control rice pests, therefore, poses an imminent peril to the economy of the State of Louisiana and to the rice growing parishes of Louisiana. The cumulative effect of Icon as a pesticide, saltwater intrusion, anticipated high water temperatures, and other weather related factors pose an imminent peril to the environment and to the economy of the State of Louisiana and to the rice growing parishes of Louisiana. The application of Icon in accordance with its label and labeling, but inconsistent with the department's rules and regulation and the potential misuse of this pesticide poses an imminent peril to the public health, safety and welfare and to the environment, especially if it gets into the waterways of this state.

The department has, therefore, determined that this Emergency Rule implementing a monitoring and registration program and governing Icon applications, during the current

crop year, are necessary in order to alleviate these perils. Information will be gathered to determine whether the effectiveness of this chemical outweighs any potential risk to the public or the environment.

The Rule becomes effective upon signature, March 22, 2004, and will remain in effect 120 days.

Title 7
AGRICULTURE AND ANIMALS
Part XXIII. Pesticide
Chapter 1. Advisory Commission on Pesticides
Subchapter I. Regulations Governing Application of Pesticides
§143. Restrictions on Application of Certain Pesticides

A. - M.2. ...

N. Persons applying Icon to rice seed and persons selling or planting Icon treated rice seed, intended to be planted in Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Iberia, Jefferson Davis, Lafayette, St. Landry, St. Martin, St. Mary, and Vermillion parishes shall comply with the following.

1. Registration Requirements

a. The commissioner hereby declares that prior to making any application of Icon to rice seed, the seed treatment owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs ("DPEP") in writing.

b. The commissioner hereby declares that prior to selling Icon treated rice seed, the dealer must first register such intent by notifying the DPEP in writing.

c. The commissioner hereby declares that prior to making aerial applications of Icon treated rice seed, the aerial owner-operator must first register such intent by notifying the DPEP in writing.

2. Growers of rice shall not force or coerce applicators to apply Icon treated rice, when the applicators, conforming to the Louisiana pesticide laws and rules and regulations or to the pesticide label and labeling, deem it unsafe to make such applications. Growers found to be in violation of this section shall forfeit their right to use Icon treated rice seed, subject to appeal to the Advisory Commission on Pesticides.

3. Icon Application Restriction

a. Do not apply Icon treated rice seed by ground within 25 feet, or by air within 100 feet of lakes, reservoirs, rivers, permanent streams, marshes or natural ponds, estuaries and commercial fish farm ponds.

b. Do not allow Icon treated rice seed to drift into neighboring fields, ponds, streams or estuaries with fish, shellfish, or crustaceans (including crawfish).

c. All Icon label and labeling use restrictions shall be strictly followed.

4. Monitoring of Icon

a. Rice seed treaters, registered to treat rice seed with Icon, shall report daily to the DPEP, on forms prescribed by the commissioner, all treatments of Icon to rice seed. Information shall include but not be limited to:

i. pounds treated;
ii. treatment rate;
iii. pounds sold or distributed;
iv. purchaser and\or grower name, address, and phone number.

b. Dealers selling Icon treated rice seed shall report daily, to the DPEP, on forms prescribed by the commissioner all sales of Icon treated rice seed. Information shall include but not be limited to:

i. pounds sold;
ii. treatment rate;
iii. acres to be planted,;
iv. planting date;
v. purchaser and\or grower name, address, parish and phone number;
vi. location and parish of field to be planted;
vii. planting applicator-owner\operator (aerial or ground).

c. Aerial Owner\operators planting Icon treated rice seed shall provide and maintain records daily, on forms prescribed by the Commissioner all applications of Icon treated rice seed. Information shall include but not be limited to:

i. pounds per acre planted;
ii. acres planted;
iii. date planted;
iv. grower name, address, parish and phone number;
v. location and parish of field planted;
vi. pilot's name and certification number.

5. Upon determination by the Commissioner that a threat or reasonable expectation of a threat to human health or to the environment exists, he may consider:

a. stop orders for use, sales, or application;
b. label changes;
c. remedial or protective orders;
d. any other relevant remedies.

O. - P.a.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 19:791 (June 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 30:

Bob Odom
Commissioner

0404#002

DECLARATION OF EMERGENCY

Tuition Trust Authority
Office of Student Financial Assistance

Student Tuition and Revenue Trust (START Saving) Program? Definitions and Deposits
(LAC 26:VI.107 and 305)

The Louisiana Tuition Trust Authority (LATTA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091 et seq.).

This Emergency Rule is necessary to allow the Louisiana Office of Student Financial Assistance and educational institutions to effectively administer these programs. A delay

in promulgating Rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LATTA has determined that this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective April 1, 2004, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28
EDUCATION
Part VI. Student Financial Assistance? Higher Education Savings? Tuition Trust Authority
Chapter 1. General Provisions
§107. Applicable Definitions

Account Owner? the person(s), independent student, organization or group that completes the START Saving Program owner's agreement on behalf of a beneficiary and is the account owner of record of all funds credited to the account.

Beneficiary? the person named by the account owner in the Education Savings Account (ESA) owner's agreement (or the person named by LATTA when authorized to make such a designation by the owner of an account that is classified under §303.A.5, as the individual entitled to apply the account balance, or portions thereof, toward payment of their qualified higher education expenses.

Beneficiary's Family? for the purpose of §303.A.5, one of the following persons:

1. the beneficiary's parent(s) or court order custodian, or

2. a person who claims the beneficiary as a dependent on his or her federal income tax return for the previous year; or

3. a person who certified that the beneficiary lives with him, that he provides more than 50 percent of the beneficiary's support for the previous year and that he was not required to file an income tax return for the previous year.

Current Value? the value of an education savings account at a given point in time.

1. The current value of fixed earnings investment options includes the accumulated value of the principal deposited, earnings on deposits, Earnings Enhancements (EE's) allocated to the account and the earnings on the EE's.

2. The current value of variable earnings investment options includes the number of units in the investment option purchased multiplied by the current value of each unit plus the Earnings Enhancements (EE's) allocated to the account and the earnings on the EE's. This value may be more or less than the amount originally deposited.

Disabled or Disability? an individual who is considered to be disabled because he/she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered disabled unless he furnishes proof of the existence thereof in such form and manner as LATTA may require.

Earnings Enhancement (EE)? a payment allocated to an ESA, on behalf of the beneficiary of the account, by the state. The amount of the annual EE is calculated based upon the classification of an account, the annual federal adjusted gross income of the account owner, and total annual deposits of principal into an ESA, including deposits in fixed earning and variable earnings options. Earnings Enhancements, and the interest earned thereon, may only be used to pay the beneficiary's qualified higher education expenses, or portion thereof, at an eligible educational institution and cannot be refunded.

Education Savings Account (ESA)? a savings account established by a natural person or a legal entity to pay qualified higher education expenses of the designated beneficiary.

Educational Term? a semester, quarter, term, summer session, inter-session, or an equivalent unit.

Eligible Educational Institution either?

1. a state college or university or a technical college or institute or an independent college or university located in this state that is accredited by the regional accrediting association, or its successor, approved by the U.S. Secretary of Education and eligible to participate in a program under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended; or

2. a public or independent college or a university located outside this state that is accredited by one of the regional accrediting associations, or its successor, approved by the U.S. Secretary of Education and eligible to participate in a program under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended; or

3. a Louisiana licensed proprietary school, licensed pursuant to R.S. Chapter 24-A of Title 17, and any subsequent amendments thereto and is eligible to participate in a program under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended.

False or Misleading Information? a statement or response made by a person, which is knowingly false or misleading, and made for the purpose of establishing a program account and/or receiving benefits to which the person would not otherwise be entitled.

Fixed Earnings? the placement of all deposits in an ESA, to include the interest earned thereon, in investments that normally provide a fixed rate of return for a specific period of time.

Fully Funded Account? an account in which the current value has equaled or exceeded the amount that is five times the annual qualified higher education expenses at the highest cost Louisiana public college or university, projected to the scheduled date of first enrollment. The projected qualified higher education expenses at each eligible educational institution shall be updated by the administering agency. On the date of the beneficiary's first enrollment in an eligible educational institution, the fully funded amount will be fixed at five times the annual qualified higher education expenses at the highest cost Louisiana public college or university, for the academic year of enrollment or the projected amount, whichever is greater.

Independent Student? a person who is defined as an independent student by the Higher Education Act of 1965 (20 U.S.C. 1088) (HEA), as amended, and if required, files an individual federal income tax return in his/her name and designates him/herself as the beneficiary of an ESA.

1. The HEA defines independent student as a student who:

a. reached 24 years of age prior to January of the year preceding the academic year for which the student is applying for aid;

b. is a veteran of the U.S. Armed Forces, including a student who was activated to serve in Operation Desert Storm;

c. is an orphan or a ward of the court or was a ward of the court until age 18;

d. has legal dependents other than a spouse;

e. is a graduate or professional student;

f. is married; or

f. has been determined independent by a financial aid officer exercising professional judgment in accordance with applicable provisions of the HEA.

2. An independent student may only open an account as an account owner if he/she is 18 years or older.

Legal Entity? juridical person including, but not limited to, groups, trusts, estates, associations, organizations, partnerships, and corporations that are incorporated, organized, established or authorized to conduct business in accordance with the laws of one or more states or territories of the United States. A natural person is not a legal entity.

Louisiana Education Tuition and Savings Fund (*the Fund*)? a special permanent fund maintained by the Louisiana State Treasurer for the purpose of the START Saving Program, and is the account into which all initial deposits made to ESAs are deposited. The fund includes the Savings Enhancement Fund, which is a special sub-account designated to receive Earnings Enhancements appropriated by the state, and interest earned thereon.

Louisiana Office of Student Financial Assistance (*LOSFA)*? the agency of state government responsible for administering the START Saving Program under the direction of the Louisiana Tuition Trust Authority.

Louisiana Resident?

1. any person who resided in the state of Louisiana on the date of the application and who has manifested intent to remain in the state by establishing Louisiana as legal domicile, as demonstrated by compliance with all of the following:

a. if registered to vote, is registered to vote in Louisiana;

b. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;

c. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle;

d. if earning an income, has complied with state income tax laws and regulations;

2. a member of the Armed Forces stationed outside of Louisiana, who claims Louisiana on his/her official DD Form 2058 as his/her *legal residence* for tax purposes, and is in compliance with state income tax laws and regulations, shall be considered eligible for program participation. A member of the Armed Forces stationed in Louisiana under permanent change of station orders shall be considered eligible for program participation;

3. persons less than 21 years of age are considered Louisiana residents if they reside with and are dependent upon one or more persons who meet the above requirements;

4. a legal entity is considered to be a Louisiana resident if it is incorporated, organized, established or authorized to conduct business in accordance with the laws of Louisiana or registered with the Louisiana Secretary of State to conduct business in Louisiana and has a physical place of business in Louisiana.

Louisiana Tuition Trust Authority (LATTA)? the statutory body responsible for the administration of the START Saving Program.

Maximum Allowable Account Balance? the amount, determined annually, and effective on August 1 of each year, and expressed as a current dollar value, which is equal to five times the qualified higher education expenses at the highest cost institution in the state. Once the current value of an ESA equals or exceeds the maximum allowable account balance, principal deposits will no longer be accepted for the account. However, if subsequent increases occur in the maximum allowable account balance, principal deposits may resume until the current value equals the most recently determined maximum allowable account balance.

Member of the Family, with respect to the designated beneficiary,?

1. the spouse of such beneficiary; or

2. an individual who bears one of the following relationships to such beneficiary:

a. a son or daughter of the beneficiary, or a descendant of either;

b. a stepson or stepdaughter of the beneficiary;

c. a brother, sister, stepbrother, or stepsister of the beneficiary;

d. the father or mother of the beneficiary, or an ancestor of either;

e. a stepfather or stepmother of the beneficiary;

f. a son or daughter of a brother or sister of the beneficiary;

g. a brother or sister of the father or mother of the beneficiary; or

h. a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the beneficiary; or

i. a first cousin of the beneficiary; or

3. the spouse of an individual listed in Items 2(a) through (i).

Natural Person? a human being.

Other Person, with respect to any designated beneficiary,? any person, other than the beneficiary, whether natural or juridical, who is not a member of the family, including but not limited to individuals, groups, trusts, estates, associations, organizations, partnerships, corporations, and custodians under the Uniform Transfer to Minors Act (UTMA).

Owner's Agreement? the agreement for program participation that the account owner completes and signs. It incorporates, by reference, R.S. 17:3091, et seq., and the rules promulgated by LATTA to implement this statutory provision and any other state or federal laws applicable to the agreement and the terms and conditions as set forth therein.

Person? a human being or a juridical entity.

Qualified Higher Education Expenses?

1. tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution; and

2. room and board; and

3. expenses for special needs services in the case of a special needs beneficiary, which are incurred in connection with such enrollment or attendance.

Rate of Expenditure? the rate [see §309.B] per educational term at which the EE's may be disbursed from an ESA to pay for the beneficiary's qualified higher education expenses at an eligible educational institution. For each disbursement requested by an account owner, EE's and the earnings thereon will be disbursed from the account in the same ratio that they bear to the current value of the account.

Redemption Value? the cash value of the moneys in an ESA invested in a fixed earnings option that are attributable to the sum of the principal deposited and the earnings on principal authorized to be credited to the account by LATTA, less any disbursements and refunds. The redemption value does not include any EEs allocated to the account or the earnings on EEs. Redemption value is not applicable to an ESA invested in variable earnings.

Refund Recipient? the person designated by the account owner in the START Saving Program owner's agreement or by operation of law to receive refunds from the account. The refund recipient can only be the account owner or the beneficiary.

Room and Board? the reasonable cost for the educational term incurred by the designated beneficiary for room and board while attending an eligible educational institution on at least a half time basis, not to exceed the maximum amount included for room and board for such period in the cost of attendance (as currently defined in §472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll) as determined by the eligible educational institution for such period, or if greater, the actual invoice amount the student residing in housing owned or operated by the eligible education institution is charged by such institution for room and board.

Saving Enhancement Fund? the sub-account established within the Tuition and Savings Fund by the State Treasurer to receive funds appropriated by the legislature or donated from any other source for the purpose of funding EEs.

Scheduled Date of First-Enrollment, for a dependent Beneficiary,? is the month and year in which the beneficiary turns 18 years of age. For an independent student over the age of 18, the scheduled date of first-enrollment is the date the account is opened. This date is used to determine eligibility for EEs. See the term *fully funded account*.

Special Needs Services and Beneficiary? services provided to a beneficiary because the student has one or more disabilities.

Trade Date? the date that a deposit to an investment option that includes variable earnings is assigned a value in units or the date a disbursement or refund from an investment option that includes variable earnings is assigned a value or the date of a change in investment options that includes variable earnings is assigned a value, whichever is applicable.

Tuition? the mandatory educational charge required as a condition of enrollment and is limited to undergraduate enrollment. It does not include non-residence fees, laboratory fees, room and board nor other similar fees and charges.

Variable Earnings? that portion of funds in an ESA invested in equities, bonds, short-term fixed income investments or a combination of any of the three.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:

Chapter 3. Education Savings Account

§305. Deposits to Education Savings Accounts

A. - E.1. …

2. Deposits for investment options that include variable earnings will be assigned a trade date based on the method of deposit and the date of receipt.

a. Deposits by check will be assigned a trade date five business days after the business day during which they were received.

E.2.b - 3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:

George Badge Eldredge
General Counsel

0404#017

DECLARATION OF EMERGENCY

Tuition Trust Authority
Office of Student Financial Assistance

Student Tuition and Revenue Trust (START Saving) Program? Interest Rates 2004 (LAC 26:VI.315)

The Louisiana Tuition Trust Authority (LATTA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091 et seq.).

This Emergency Rule is necessary to allow the Louisiana Office of Student Financial Assistance and educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LATTA has determined that this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective February 17, 2004, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28
EDUCATION
Part VI. Student Financial Assistance? Higher Education Savings? Tuition Trust Authority
Chapter 3. Education Savings Account
§315. Miscellaneous Provisions

A. - B.8. …

9. For the year ending December 31, 2003, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.33 percent.

10. For the year ending December 31, 2003, the Earnings Enhancements Fund earned an interest rate of 5.17 percent.

C. - R. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), LR 29:2374 (November 2003), LR 30:

George Badge Eldredge
General Counsel

0404#016

DECLARATION OF EMERGENCY

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Notification Requirements for Unauthorized Emissions
(LAC 33:I.3925 and 3931)(OS052E2)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allows the Department of Environmental Quality ("department") to use emergency procedures to establish rules, and R.S. 30:2011, 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 OS052E1, which was effective December 10, 2003, and published in the *Louisiana Register* on December 20, 2003. The department has proposed a Rule (OS052) on February 20, 2004, to promulgate these regulation changes.

In the last two years, the Baton Rouge Nonattainment Area (the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge) has experienced exceedances of the one-hour ozone National Ambient Air Quality Standard (NAAQS) promulgated by the United States Environmental Protection Agency (US EPA). These exceedances did not occur during circumstances that typically result in excessive ozone formation and led to ozone readings the Baton Rouge area has not experienced in a decade. The ozone readings for two separate episodes in September 2002 and July 2003 were 164 parts per billion (ppb) and 174 ppb respectively, over 30 percent above the standard. Monitoring results from these exceedances indicate a high rate and efficiency of ozone production, which was limited spatially to the immediate Baton Rouge area. These ozone episodes correspond very well to the kind of episodes that have occurred in the Houston/Galveston areas. The Texas Air Quality Study, conducted in the Houston/Galveston areas, concluded that the reactivity of the hydrocarbons was most often dominated by low molecular weight alkenes and aromatics resulting in explosive ozone formation. Results from computer simulations based on Houston's industrial regions suggest emissions of as little as 100 pounds of light alkenes and aromatics can lead to 50 ppb or greater enhancements of ozone concentrations. Air quality sampling in the Baton Rouge area also showed substantial quantities of the mentioned ozone precursors. Baton Rouge's type of industry (petrochemical plants and refineries) and meteorological conditions are similar enough to Houston to warrant further investigation. The ozone formation experienced in the Baton Rouge area may similarly be the result of the emissions of "highly reactive" ozone precursors.

The department continues to need additional information regarding the unauthorized releases of these highly reactive ozone precursors to understand, predict, and prevent further exceedances of the ozone standard. This information is needed immediately to monitor the remainder of the 2003 and the 2004 ozone season in the hopes of achieving attainment of the standard. Facilities are to continue to follow the LAC 33:I.Chapter 39 reporting protocols and, whenever possible, to utilize the new notification procedures found at http://www.deq.louisiana.gov/surveillance/irf/forms and http://www.deq.louisiana.gov/surveillance.

Revisions to the regulations include additional information to be included on the written notification report required in LAC 33:I.3925. This information will enhance the investigation of highly reactive VOC that is in progress. The table in LAC 33:I.3931 is being amended for clarification, and a footnote is revised to clarify that for releases of highly reactive VOC, the lowered Reportable Quantity only applies to releases to the atmosphere.

This Emergency Rule is effective on April 8, 2004, 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 OS052E2, you may contact the Regulation Development Section at (225) 219-3550.

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 2. Notification
Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges
Subchapter D. Notification Procedures
§3925. Written Notification Procedures for the Department of Environmental Quality

A. - B.3. …

4. details of the circumstances (unauthorized discharge description and root cause) and events leading to any unauthorized discharge, including incidents of loss of sources of radiation, and if the release point is permitted:

a. the current permitted limit for the pollutant(s) released;

b. the permitted release point/outfall ID; and

c. which limits were exceeded (SO_2 limit, mass emission limit, opacity limit, etc.) for air releases;

5. common or scientific chemical name of each specific pollutant that was released as the result of an unauthorized discharge, including the CAS number and U.S. Department of Transportation hazard classification, and best estimate of amounts of any or all released pollutants (total amount of each compound expressed in pounds, include calculations);

B.6. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C) and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), LR 30:

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. - A.2. …

B. Modifications or Additions. The following table contains modifications to the federal reportable quantity lists incorporated by reference in Subsection A of this Section, as well as reportable quantities for additional pollutants.

Pollutant	CAS No.[1]	RCRA[2] Waste Number	Pounds
Acetaldehyde	75070	U001	100[+]
* * * [See Prior Text in Allyl chloride – Antimony*]			
Antimony Compounds	20008		100
Barium*	7440393		100
Barium compounds	20020		100
Biphenyl	92524		100
1-Butanol	71363	U031	5000/1000 [@]
Butenes (all isomers except 1,3 butadiene)	25167673		100[+]
n-Butyl alcohol	71363	U031	5000/1000 [@]
* * * [See Prior Text in Carbonic dichloride]			
Carbonyl sulfide	463581		100
* * * [See Prior Text in Chlorinated Dibenzo Furans, all isomers - Chromium[3] *]			
Chromium compounds	20064		100
* * * [See Prior Text in Copper[3]]			
Copper Compounds	20086		100
* * * [See Prior Text in Cumene]			
1,3-Dichloropropylene	542756		100
* * * [See Prior Text in Ethyl acrylate]			
Ethylene	74851		5000 or 100[+]
Ethylene glycol	107211		5000
Glycol ethers **			100
* * * [See Prior Text in Hexane - 1,3-Isobenzofurandione]			
Manganese*	7439965		100
Manganese compounds			100
* * * [See Prior Text in Methanethiol]			
Methyl acrylate	96333		10
* * * [See Prior Text in Methyl ethyl ketone (MEK) - 4-Methyl-2-pentanone]			
Methylene diphenyl isocyanate	101688		1000
* * * [See Prior Text in Nitric acid – Propionaldehyde]			
Propylene	115071		100[+]
* * * [See Prior Text in Strontium sulfide – Thiomethanol]			
Toluene	108883	U220	100[+]
* * * [See Prior Text in Vinyl acetate - Volatile Organic |Compounds not otherwise listed[4]]			
Highly reactive volatile organic compounds listed below: acetaldehyde; butenes (all isomers); ethylene; propylene; toluene; xylene (all isomers); and/or isoprene[5]			100[+]
* * * [See Prior Text in F003 – F005, Methyl ethyl ketone]			

Note * - Note[4] …

[5] The combined emission of these highly reactive VOC shall be totaled to determine if a RQ has been exceeded.

Note [@] …

[+] The RQ listed denotes the reportable quantities that will apply to unauthorized emissions based on total mass emitted into the atmosphere for facilities in the following parishes: Ascension, East Baton Rouge, Iberville, Livingston, West Baton Rouge, St. Charles, St. James, St. John the Baptist, Pointe Coupee, and West Feliciana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Department of Environmental Quality, Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:

Mike D. McDaniel, Ph.D.
Secretary

0404#024

DECLARATION OF EMERGENCY

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Remediation of Sites with Contaminated Media
(LAC 33:V.109)(HW084E2)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), which allows the Department of Environmental Quality to use emergency procedures to establish Rules, and under the authority of R.S. 30:2011, the secretary of the department hereby declares that an emergency action is necessary in order to implement Rules to address the remediation of sites with contaminated environmental media.

This is a renewal of Emergency Rule HW084E1, which was effective December 8, 2003, and published in the *Louisiana Register* on December 20, 2003. The department

is drafting a Rule to promulgate these regulation changes. Additional language has been added to this renewal of the Emergency Rule to further define the management of contaminated media as nonhazardous.

Current regulation causes contaminated environmental media to retain the description of having RCRA-listed waste "contained-in," therefore slowing the remediation of the site or possibly halting it completely due to administration and disposal issues. This Rule will remove a regulatory hurdle that deters site remediation. The incentive to remediate pollution stems from the resulting substantially reduced disposal and transportation costs for contaminated environmental media that are not required to be managed in the same manner as hazardous waste. The Rule will also result in simplification of the waste handling process by reducing administrative requirements and providing greater consistency with non-RCRA waste handling requirements and practices. This will provide strong motivation to initiate and accelerate voluntary remediation of contaminated sites without increasing risks to human health or the environment.

This Emergency Rule is effective on April 6, 2004, 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 HW084E2 you may contact the Regulation Development Section at (225) 219-3550.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality? Hazardous Waste

Chapter 1. General Provisions and Definitions

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Hazardous Waste? a solid waste, as defined in this Section, is a hazardous waste if:

1. - 2.c.vii. …

d. it consists of environmental media (soil, sediments, surface water, or groundwater) that contain one or more hazardous wastes listed in LAC 33:V.4901 (unless excluded by one of the exclusions contained in this definition) or that exhibit any of the characteristics of hazardous waste identified in LAC 33:V.4903. Environmental media no longer contain a hazardous waste when concentrations of the hazardous constituents that serve as the basis for the hazardous waste being listed (as shown in LAC 33:V.4901, Table 6, Table of Constituents that Serve as a Basis for Listing Hazardous Waste, or if constituents are not listed in Table 6 refer to LAC 33:V.2299 (formerly Chapter 22 Appendix) for appropriate constituents, or if not listed in either of these locations shall be determined by the department on a case-by-case basis) remaining in the media are below applicable RECAP Screening Standards (LAC 33:I.Chapter 13) and the media no longer exhibit any of the characteristics of hazardous waste identified in LAC 33:V.4903. Land disposal treatment standards (LAC 33:V.2299, formerly Chapter 22 Appendix) apply prior to placing such environmental media into a land disposal unit even though the media may no longer contain a hazardous waste.

e. Rebuttable Presumption for Used Oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in LAC 33:V.4901. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (e.g., by using an analytical method from LAC 33:V.Chapter 49.Appendix A to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in LAC 33:V.3105.Table 1).

i. The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling agreement, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner or disposed.

ii. The rebuttable presumption does not apply to used oils contaminated with Chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

3. - 6.b.…

* * *

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 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218 (March 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003), LR 30:

Mike D. McDaniel, Ph.D.
Secretary

0404#023

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Racing Commission

Claiming Rule (LAC 35:XI.9905 and 9913)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following Emergency Rule effective April 17, 2004, and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to (1) readopt §9905 to ensure proper timing when claiming a horse, and (2) amend §9913 to protect the successful claimant's ownership at the moment the horse becomes a starter.

Title 35
HORSE RACING
Part XI. Claiming Rules and Engagements
Chapter 99. Claiming Rule

§9905. Timing of Entering Next Claiming Race

Note: This rule is being reinstated; it was repealed in 1996.

A. Except as otherwise provided herein, a claimed horse shall not enter in starter, optional or claiming races for 30 days after being claimed in a race in which the determining eligibility price is less than 25 percent more than the price at which the horse was claimed. The day claimed shall not count, but the following calendar day shall be the first day and the horse shall be entitled to enter whenever necessary so the horse may start on the 31st day following the claim for any claiming price. This provision shall not apply to starter handicaps in which the weight to be carried is assigned by the handicapper. A similar rule in other states will be recognized and enforced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 30:

§9913. Vesting of Title; Tests

A. Title to a claimed horse shall be vested in the successful claimant at the time the horse becomes a starter. The successful claimant shall then become the owner of the horse whether alive or dead, sound or unsound, or injured at any time after leaving the paddock, during the race or after. However, the successful claimant may request on the claim blank at the time he makes his claim that the horse be tested for the presence of equine infectious anemia via a Coggins test. Should this test prove positive, it shall be cause for a horse to be returned to his previous owner and barred from racing in the state of Louisiana. The expense of the Coggins test and the maintenance of the horse during the period requested for the test shall be absorbed by the successful claimant. If such a test is requested the claimed horse will be sent to the retention barn of the Louisiana State Racing Commission where the state veterinarian will draw a blood sample, which sample shall be sent to a laboratory approved by the Louisiana Livestock Sanitary Board for the conduct of such test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:446 (December 1976), repromulgated LR 3:42 (January 1977), LR 4:285 (August 1978), amended LR 5:136 (June 1979), amended by the Office of the Governor, Division of Administration, Racing Commission LR 30:

Charles A. Gardiner III
Executive Director

0404#007

DECLARATION OF EMERGENCY

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

Personal Care Services? Long Term
(LAC 50:XV.Chapter 129)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.12903, 12905, and 12909 as authorized by LA. R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated 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 final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a Rule to establish the provisions governing coverage of personal care services as an optional service under the Medicaid State Plan *(Louisiana Register*, Volume 29, Number 6). The bureau amended the June 20, 2003 rule to clarify covered services, revise the recipient qualifications and define the term "legally responsible relative" (*Louisiana Register*, Volume 29, Number 10). The bureau now proposes to amend the June 20, 2003 Rule and the October 1, 2003 emergency rule to establish provisions governing when a recipient may change personal care service providers and staffing requirements for personal care services agencies. In addition, the bureau proposes to amend the general provisions, standards for participation and the place of service requirements contained in the June 20, 2003 Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring that services are performed by qualified personnel.

Emergency Rule

Effective April 20, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the June 20, 2003 Rule and October 1, 2003 Emergency Rule governing personal care services to establish provisions governing when a recipient may change personal care service providers and staffing requirements for personal care services agencies. In addition, the bureau proposes to amend the general provisions, standards for participation and the place of service requirements contained in the June 20, 2003 Rule.

Title 50
PUBLIC HEALTH? MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 9. Personal Care Services
Chapter 129. Long Term

§12901. General Provisions

A. ....

B. An assessment shall be performed for every recipient who requests personal care services. This assessment shall be utilized to identify the recipient's long term care needs, preferences, the availability of family and community supports and to develop the plan of care. The Minimum Data Set-Home Care (MDS-HC) System will be used as the basic assessment tool. However, other assessment tools may be utilized as a supplement to the MDS-HC to address the needs of special groups within the target population.

C. Authorization. Personal care services (PCS) shall be authorized by the Bureau of Health Services Financing or its designee. The bureau or its designee will review the completed assessment, supporting documentation from the recipient's primary physician, plan of care and any other pertinent documents to determine whether the recipient meets the medically necessity criteria for personal care services.

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 29:911 (June 2003), amended LR 30:

§12903. Covered Services

A. Personal care services are defined as those services that provide assistance with the distinct tasks associated with the performance of the activities of daily living (ADL) and the instrumental activities of daily living (IADL). Assistance may be either the actual performance of the personal care task for the individual or supervision and prompting so the individual performs the task by him/herself. ADLs are those personal, functional activities required by an individual for continued well-being, health and safety. ADLs include tasks such as:

1. eating;
2. bathing;
3. dressing;
4. grooming;
5. transferring (getting in/out of the tub, from a bed to a chair);
6. reminding the recipient to take medication;
7. ambulation; and
8. toileting.

B. - C. …

D. Constant or intermittent supervision and/or sitter services are not a component of personal care services.

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 29:912 (June 2003), amended LR 30:

§12905. Recipient Qualifications

A. Personal care services shall be available to recipients who are 65 years of age or older, or 21 years of age or older and disabled. Disabled is defined as meeting the disability criteria established by the Social Security Administration.

B. Personal care services for elderly or disabled recipients must meet medical necessity criteria as determined by the Bureau of Health Services Financing and must be prior authorized by Bureau or its designee. Personal care services are medically necessary if the recipient:

1. meets the medical standards for admission to a nursing facility, including all Preadmission Screening and Annual Resident Review (PASARR) requirements; and

2. is able, either independently or through a responsible representative, to participate in his/her care and direct the services provided by the personal care services worker. A responsible representative is defined as the person designated by the recipient to act on his/her behalf in the process of accessing and/or maintaining personal care services; and

3. faces a substantial possibility of deterioration in mental or physical condition or functioning if either home and community-based services or nursing facility services are not provided in less than 120 days. This criterion is considered met if:

a. the recipient is in a nursing facility and could be discharged if community-based services were available;

b. is likely to require nursing facility admission within the next 120 days; or

c. has a primary caregiver who has a disability or is over the age of 70.

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 29:912 (June 2003), amended LR 30:

§12907. Recipient Rights

A. - A.9. ....

B. Changing Providers. Recipients may request to change PCS providers without cause once after each three month service authorization period. Recipients may request to change PCS providers with good cause at any time during the service authorization period. Good cause is defined as the failure of the provider to furnish services in compliance with the service plan. Good cause shall be determined by the Bureau or its designee.

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 29:912 (June 2003), amended LR 30:

§12909. Standards for Participation

A. - B.2. ...

3. ensure that a criminal background check is performed for all direct care and supervisory staff and that the results are maintained in each employee's personnel record;

a. The criminal background check must be performed by the Office of the State Police or an agency authorized by the Office of the State Police.

i. The agency may make an offer of temporary employment to an individual pending the results of the criminal background check. In such instances, the worker shall perform his/her duties under the direct supervision of a permanent employee or in the presence of a member of the recipient's immediate family or of a care giver designated by the immediate family;

4. ensure that the direct care staff is qualified to provide personal care services. Assure that all new staff satisfactorily completes an orientation and training program in the first 30 days of employment;

5. - 10. ...

11. have proof of general liability insurance of at least $200,000. The certificate holder shall be the Department of Health and Hospitals; and

12. maintain an office in each region in which it proposes to provide services. Consideration shall be given to an agency's request to provide services in one parish that is adjacent to its designated service region if the agency's office is within a 50-mile radius of that parish's borderline.

a. Each office must have hours of operation that conform to the customary operating hours for similar businesses in the local community and have written provisions for emergency contact that include a toll-free telephone line with 24-hour accessibility. The written policy governing emergency contact shall be made available to recipients and staff.

b. Each office must house the case records and billing documentation for the individuals served by that office.

c. Each office must also house the personnel and payroll records for all of the employees who are assigned to that office.

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 29:912 (June 2003), amended LR 30:

§12911. Staffing Requirements

A. Personal care services agencies participating in the Medicaid Program must ensure that all staff providing direct care to the recipient meets the qualifications for furnishing personal care services. The PCS worker shall demonstrate empathy toward the elderly and persons with disabilities, an ability to provide care to these recipients, and the maturity and ability to deal effectively with the demands of the job. In addition, all supervisors of direct care staff must meet the qualifications set forth in this §12911.

B. Personal Care Services Worker Qualifications

1. Age. The worker must be at least 18 years old or older at the time the offer of employment is made. Verification of age must be maintained in each employee's personnel record.

2. Education and Experience. All PCS workers must meet one of the following minimum education and experience qualifications:

a. a high school diploma or general equivalency diploma (GED); or

b. a trade school diploma in the area of human services; or

c. documented, verifiable experience providing direct care services to the elderly and/or persons with disabilities.

3. The PCS worker must have the ability to read and write in English as well as to carry out directions promptly and accurately.

C. Restrictions. A legally responsible relative is prohibited from being the paid PCS worker for a family member. Legally responsible relative is defined as the parent of a minor child, foster parent, curator, tutor, legal guardian or the recipient's spouse.

D. Supervisor Qualifications

1. Education and Experience. PCS supervisory staff must meet one of the following minimum education and experience qualifications. A PCS supervisor must:

a. have a bachelor's degree from an accredited college or university in one of the following human service-related fields:

i. social work;
ii. psychology;
iii. sociology;
iv. physical therapy;
v. occupational therapy;
vi. recreational therapy; or
vii. counseling; and

b. have two years of paid experience in a human service-related field providing direct services to the elderly and/or persons with disabilities;

Note: Thirty hours of graduate level course credit in any of the referenced human service-related fields may be substituted for the one year of required paid experience.

c. be a licensed registered nurse (RN) or a licensed practical nurse (LPN) with one year of paid experience as a RN or LPN providing direct services to the elderly and/or persons with disabilities; or

d. have a high school diploma or GED and five years of paid experience providing direct care services to the elderly and/or persons with disabilities.

E. Supervisory Responsibilities

1. The supervisor shall be responsible for assessing PCS workers' job performance, reviewing client cases, providing constructive feedback, and assisting staff to resolve problems and to provide services in a more effective manner using the following methods:

a. routine (at least quarterly) face-to-face meetings with each PCS worker; and

b. periodic (at least quarterly) unannounced visits to the recipient's residence to monitor service delivery and compliance with the plan of care and service plan.

2. Each supervisor shall be responsible for the supervision of no more than 15 PCS workers.

F. Training. Training for PCS workers and supervisors must be provided or arranged for by the personal care services agency at its own expense.

1. A minimum of eight hours of orientation must be provided to new direct care and supervisory employees within one week of employment. The orientation provided to staff shall include, but is not limited to:

a. agency policies and procedures;
b. staff duties and responsibilities;
c. ethics and confidentiality;
d. record keeping;
e. a description of the population served by the agency; and
f. a discussion of issues related to providing care for these individuals, including physical and emotional problems associated with aging and disability.

2. New direct care staff must also receive training in cardiopulmonary resuscitation (CPR) and basic first aid within one week of employment. A current, valid certification for CPR and first aid may be accepted as verification of training.

3. A minimum of 16 hours of training must be furnished to new employees within 30 days of employment. The PCS agency training curriculum must, at a minimum, include the following components:

a. communication skills;

b. observation, reporting and documentation of the recipient status and the care or service furnished;

c. basic infection control procedures;

d. basic elements of body functioning and changes in body function that must be reported to a worker's supervisor;

e. safe transfer techniques and ambulation;

f. appropriate and safe techniques in personal hygiene and grooming that include:

i. bed bath;

ii. sponge, tub, or shower bath;

iii. sink, tub, bed shampoo;

iv. nail and skin care;

v. oral hygiene; and

vi. toileting and elimination;

g. recognizing emergencies and knowledge of emergency procedures;

h. maintenance of a clean, safe and healthy environment; and

i. treating the recipient with dignity and respect, including the need to respect his/her privacy and property.

4. PCS workers and supervisors must satisfactorily complete a minimum of 20 hours of annual training related to the provision of personal care services. This training may include updates on the subjects covered in orientation and initial training. The eight hours of orientation required for new employees are not included as part of the hours required for the annual training.

5. Documentation. All required training must be documented in the employee's personnel record, including the date, time spent in the training session, subjects covered and the name of the individual who conducted the training. Verification of training shall be furnished to the Bureau or its designee upon request.

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 30:

§12913. Place of Service

A. Personal care services may be provided in the recipient's home or in another location outside of the recipient's home if the provision of these services allows the recipient to participate in normal life activities pertaining to the IADLs cited in the plan of care. The recipient's home is defined as the place where he/she resides such as a house, an apartment, a boarding house, or the house or apartment of a family member or unpaid primary care-giver. The following institutional settings are not considered to be a recipient's home:

1. a hospital;

2. an institution for mental disease;

3. a nursing facility; or

4. an intermediate care facility for the mentally retarded.

B. - D. ...

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 29:913 (June 2003), amended LR 30:

Interested persons may submit written comments to Ben A. Bearden at the 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0404#082

DECLARATION OF EMERGENCY

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

Private and Public Non-State Owned and Operated Hospitals? Inpatient Psychiatric Services Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates 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 promulgated 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 adopted a rule which established the prospective reimbursement methodology for inpatient psychiatric hospital services provided in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital (*Louisiana Register*, Volume 19, Number 6). This Rule was subsequently amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates for inpatient psychiatric services in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5). The bureau now proposes to rebase the reimbursement rates paid for inpatient psychiatric hospital services provided in private and public non-state owned and operated free-standing psychiatric hospitals and distinct part psychiatric units based on the 24th percentile facility for costs reported on the cost report ending in SFY 2002 for services rendered to recipients under age 21. Payment for inpatient psychiatric hospital services provided to recipients over age 21 in these facilities shall be based on the 13th percentile facility for costs reported on the cost report ending in SFY 2002.

This action is being taken to protect the health and welfare of Medicaid recipients by encouraging the continued participation of hospitals that furnish psychiatric services in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures to private and public non-state owned and operated hospitals for inpatient psychiatric services by approximately $551,559 for state fiscal year 2003-2004.

Emergency Rule

Effective for dates of service on or after April 1, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for inpatient psychiatric hospital services provided in private and public non-state owned and operated free-standing psychiatric hospitals and distinct part psychiatric units based on the 24th percentile facility for costs reported on the cost report ending in SFY 2002 for services rendered to recipients under age 21. Payment for inpatient psychiatric hospital services provided to recipients over age 21 in these facilities shall be based on the 13th percentile facility for costs reported on the cost report ending in SFY 2002. The costs utilized to determine the 13th and 24th percentile facility shall include all free-standing psychiatric hospitals and distinct part psychiatric units providing services to Medicaid recipients in the state. Costs shall be trended to the midpoint of the rate year using the Medicare PPS Market Basket Index. The application of inflationary adjustments in subsequent years shall be contingent on the appropriation of funds by the Legislature.

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 at the 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 public notice is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0404#083

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 promulgates 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 promulgated 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 seven 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 subsequently promulgated a rule to increase the reimbursement for certain designated CPT procedure codes related to speciality services (*Louisiana Register*, Volume 28, Number 8). As a result of the allocation of additional funds by the Legislature during the 2003 Regular Session, the bureau increased reimbursement for selected CPT surgical and medical codes. (*Louisiana Register*, Volume 29, Number 12). This Emergency Rule is promulgated to continue the provisions contained in the January 1, 2004 Rule. 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 May 1, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement paid to physicians for selected surgical and medical services provided to designated Medicaid recipients.

Pediatric Surgery Services

A. Services include selected surgery services provided by the primary servicing physician to Medicaid recipients from 11 through 15 years of age. Physicians' Current Procedural Terminology (CPT) surgical procedure codes (10021-69990) shall be reimbursed at 100 percent of the Medicare Region 99 allowable for 2002, except for procedure codes on file that are in non-pay status, procedure codes for deliveries (59410) and (59415) or those payable with a fee greater than 100 percent of the Medicare Region 99 allowable for 2002.

B. Surgical services modified with modifier 63 (procedure performed on infants less than 4 kg) shall be reimbursed at 125 percent of the fee on file.

Pediatric Medical Services

A. Services include selected medical services provided by the primary servicing physician to Medicaid recipients from birth through 15 years of age. Physicians' Current Procedural Terminology (CPT) medical procedure codes (90918-99199) shall be reimbursed at 100 percent of the Medicare Region 99 allowable for 2002, except for procedure codes on file that are in non-pay status, procedure codes for conscious sedation (99141) and (99142) or those payable with a fee greater than 100 percent of the Medicare Region 99 allowable for 2002.

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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0404#085

DECLARATION OF EMERGENCY

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

Medicaid Eligibility? Medically Needy Program
Incurred Deductions

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2002-2003 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid Program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule promulgating the Medicaid Eligibility Manual in its entirety by reference in May of 1996 *(Louisiana Register*, Volume 22, Number 5). The department provides Medicaid coverage under the Medically Needy Program that is optional under Title XIX of the Social Security Act Section 1902(a)(10) and 42 CFR Subpart D Section 435.300. The Medically Needy Program includes those individuals or families who meet all AFDC or SSI related categorical requirements and whose income is within the Medically Needy Income Eligibility Standard. It also includes those individuals or families whose resources fall within the categorical limits, but whose income is above the Medically Needy Income Eligibility Standard. These individuals or families having income in excess of the Medically Needy Income Eligibility Standard can reduce excess income by incurring medical and/or remedial care expenses. This method used for determining eligibility is referred to as spend-down. A state may choose to exclude from incurred expenses those bills for services furnished more than three months before the Medicaid application is filed for initial eligibility. A state is required to deduct any current payment on such excluded expenses.

In compliance with Executive Order MJF 02-29, the bureau amended the policy governing the consideration of incurred expenses in the eligibility determination process for the Medically Needy Program *(Louisiana Register*, Volume 29, Number 1). The bureau now proposes to amend the January 1, 2003 Emergency Rule to clarify the policy governing the consideration of incurred expenses in the eligibility determination process for the Medically Needy eligibility group. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately $603,262 for state fiscal year 2003-2004.

Emergency Rule

Effective April 20, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing deductions for incurred medical expenses in the eligibility determination process for the Medically Needy eligibility group. Those bills for necessary medical and remedial services furnished more than three months before the Medicaid application is filed will be excluded as an incurred expense. Current payments on excluded expenses will be allowed as an incurred expense. The first budget period for the Medically Needy will begin the first month in the three-month period prior to the date of application in which the applicant received covered services.

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 at the 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0404#084

DECLARATION OF EMERGENCY

Department of Natural Resources
Office of Conservation

Ground Water Management (LAC 43:VI.Chapters 1-29)

Editor's Note: In accordance with OSR uniform formatting procedure, these rules have been moved from Title 33 to Title 43 for topical placement.

The Commissioner of Conservation (Commissioner), pursuant to the provisions of the Louisiana Administrative Procedure Act, Title 49, Sections 953(B)(1) and (2), 954(B)(2), as amended, on May 18, 2001, proposes to adopt the subject Emergency Rule regarding hearings for the designation of Critical Groundwater Areas and water well notification requirements on March 22, 2004. The Emergency Rules satisfy the requirements mandated by Act 49 of the 2003 Regular Session, which states that the Commissioner of Conservation has the authority to develop and promulgate rules and regulations for the determination of critical groundwater areas and collect notice of intent to drill water wells from the owners.

Failure to have hearing procedures for critical ground water area applications and procedures for collecting information on proposed well locations may endanger the commissioner's ability to manage the ground water resources

of the state, as directed by Act 49 (2003). The Act specifically requires that public hearings be held in such matters and requires the Commissioner to collect notice of intent to drill water wells from owners. The attached emergency rules provide the mechanism to meet these requirements.

This Emergency Rule is issued pending final rules.

This Rule will become effective on publication in the Louisiana Register and will remain in effect be in effect for 120 days.

Title 43

NATURAL RESOURCES

Part VI. Water Resources Management

Subpart 1. Ground Water Management

Chapter 1. General Provisions

§101. Applicability

A. The rules and regulations of Chapter 1 through 29 shall be applicable to the commissioner's jurisdiction regarding:

1. critical ground water areas;
2. ground water emergencies; and
3. management of the state's ground water resources.

B. The rules shall not alter or change the right of the commissioner to call a hearing for the purpose of taking action with respect to any matter within the commissioner's jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:

§103. Definitions

A. The words defined herein shall have the following meanings when used in these rules and regulations Chapters 1 through 29. All other words used and not defined shall have their usual meanings unless specifically defined in Title 38 of the Louisiana Revised Statutes.

Aquifer? a *ground water* bearing stratum of permeable rock, sand, or gravel.

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

Commission? Ground Water Resources Commission authorized by R.S. 38:3097.4.

Commissioner? Commissioner of Conservation.

Critical Ground Water Area? an area in which, under current usage and normal environmental conditions, *sustainability* of an *aquifer* is not being maintained due to either movement of a salt water front or water level decline, or subsidence, resulting in unacceptable environmental, economic, social, or health impacts, or causing a serious adverse impact to an *aquifer*, considering the areal and temporal extent of all such impacts.

Domestic Well? a *well* used exclusively to supply the household needs of the owner lessee or his family. Uses may include drinking, cooking, washing, sanitary purposes, lawn and garden watering and caring for pets. *Domestic wells* shall also include *wells* used on private farms and ranches for the feeding and caring of pets and watering of lawns, excluding livestock, crops, and ponds

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

Ground Water Emergency? an unanticipated occurrence as a result of a natural force or a man-made act which causes a *ground water* source to become immediately unavailable for *beneficial use* for the foreseeable future or drought conditions determined by the *commissioner* to warrant the temporary use of drought relief *wells* to assure the sustained production of agricultural products in the state.

Large Volume Well? a *well* with an 8 inch or greater diameter screen size or as further defined within these regulations.

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

Replacement Well? a *well* located within 1,000 feet of the original *well* and within the same property boundary as the original *well*, installed within the same *aquifer* over an equivalent interval with an equivalent pumping rate, and used for the same purpose as the original *well*.

Spacing? the distance a water *well* may be located in relation to an existing or proposed water *well*, regardless of property boundaries.

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* who is making any *beneficial use* of *ground water* from a well or *wells* owned or operated 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. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:

Chapter 3. Critical Ground Water Area Application Procedure

§301. Who May Apply? Applicant

A. Any owner of a well that is significantly and adversely affected as a result of the movement of salt water front, water level decline, or subsidence in or from the aquifer drawn on by such well shall have the right to file an application to request the commissioner to declare that an area underlain by such aquifer is a critical ground water area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:

§303. Notice of Intent

A. A The applicant shall have published a Notice of Intent to file an application for a critical ground water area designation the official parish journal of each parish affected by the proposed application. Such notice shall include:

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

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 area;

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

5. a statement indicating where in the application can be viewed; and

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

Commissioner of Conservation
Post Office Box 94275
Baton Rouge, LA 70804-9275
ATTN: Director, Ground Water Resources Division

B. A Notice of Intent to apply for the removal or modification of a critical ground water area designation shall be published in the official parish journal of each parish affected by the proposed application. Such notice shall include:

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

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 area;

4. a statement that, if the critical ground water area designation is removed or modified, current restrictions, if any, shall be rescinded or modified;

5. a statement indicating where in the application can be viewed; and

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

Commissioner of Conservation
Post Office Box 94275
Baton Rouge, LA 70804-9275
ATTN: Director, Ground Water Resources Division

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:

§305. Critical Ground Water Area Application Content

A. An application for a critical ground water area designation or the removal or a modification of a critical ground water area designation shall be filed with the commissioner of conservation at the above address no sooner than 30 days and no later than 60 days after publication of the Notice of Intent. Five copies of the application shall be filed, and 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 or area proposed to be modified or removed from a critical ground water area designation, including but not limited to:

a. its location (section, township, range and parish);

b. a map clearly identifying the boundaries of the subject area of the application, such as but not limited to:

i. U.S. Geological Survey topographic map of appropriate scale (1:24,000, 1:62,500, 1:100,000); or

ii. LA-DOTD Louisiana parish map outlining the perimeter of the area; or

iii. if digital map data is submitted in vector and/or raster formats, then the supporting metadata should be included;

5. statement of facts and evidence supporting one of the following claims:

a. that no action would likely negatively impact ground water resources in the aquifer, if the application is pursuant to §307.A;

b. that alleviation of stress to the aquifer has occurred; if the application is pursuant to §307.B;

6. the proof of publication of Notice of Intent to apply to the Commissioner.

B. Direct Action by the Commissioner for Critical Ground Water Area Hearing

1. The commissioner may initiate a hearing to consider action with respect to a specific ground water area.

2. The commissioner shall notify the public pursuant to §303 and §501.A prior to issuing an order.

3. The information presented by the commissioner at the hearing shall include but not be limited to information pursuant to §305.A and §307.

C. Application for Groundwater Emergency Hearing

1. Notwithstanding the provisions of Subsections A and B hereof, the commissioner may initiate action in response to an application of an interested party or upon the commissioner's own motion in response to a ground water emergency.

2. 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 commissioner shall promptly schedule a public hearing pursuant to §501.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1585 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:

§307. Criteria for a Critical Ground Water Area Designation

A. Application for designation of a critical ground water area must contain a statement of facts and supporting evidence substantiating that under current usage and normal environmental conditions, sustainability of an aquifer is not being maintained resulting in unacceptable environmental, economic, social, or health impacts, or causing a serious adverse impact to an aquifer, considering the areal and temporal extent of all such impacts caused by at least one of the following criteria:

1. water level decline; and/or

2. movement of a saltwater front; and/or

3. subsidence in or from the aquifer caused by overall withdrawals.

B. If the applicant is applying for modification or removal of a critical ground water area designation, the application must contain a statement of facts and supporting evidence substantiating the alleviation of the original cause of designation.

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

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

2. a proposal to preserve and manage the ground water resources in the critical ground water area pursuant to R.S. 38:3097.6.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1585 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:

§309. Review of Critical Ground Water Area Application

A. Within 30 days of receipt of an application pursuant to §305.A, the applicant shall be notified whether or not the application is administratively complete.

B. If the commissioner determines an application is incomplete, the applicant shall be notified in writing of the information needed to make such application administratively complete.

C. The applicant shall have 180 days to respond to a request for more information by the commissioner, pursuant to Subsection B of this Section.

D. The commissioner may reject and return any application determined to be:

1. without merit or frivolous; or

2. incomplete after applicant's response to the commissioner's request for more information, pursuant to Subsection B of this Section, unless the remaining information required by the commissioner is minor in its nature.

E. Using available data, an analysis shall be made by the commissioner to determine if the area under consideration meets the criteria to be designated a critical ground water area or can be modified or removed from a critical ground water designation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1585 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:

§311. Recordkeeping

A. The commissioner 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 commissioner.

B. The commissioner 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. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1586 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:

Chapter 5. Hearings

§501. Notice of Hearings

A. Critical Ground Water Area Preliminary Hearing Pursuant to §305.A or §305.B

1. Upon determination that an application is administratively complete and if the commissioner deems it necessary, a preliminary public hearing may be scheduled at a location determined by the commissioner in the locality of the area affected by the application.

2 Notice of the preliminary hearing shall contain the date, time and location of the hearing and the location of materials available for public inspection.

3. 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.

4. A copy of the notice shall be sent to the applicant, any person requesting notice, and local, state and federal agencies that the commissioner determines may have an interest in the decision relating to the application.

B. Critical Ground Water Area Hearing Pursuant to §305.C and §505.B

1. Should the commissioner determine that a preliminary hearing is not necessary, a draft order shall be issued, pursuant to R.S. 38:3097.6.A and a hearing shall be scheduled, pursuant to this Subsection.

2. The commissioner shall notify the public of any hearing initiated by the commissioner as a result of an action, pursuant to §305.C or §505.B, a minimum of 15 days prior to the hearing.

3. Hearings initiated by the commissioner shall be held in the locality of those affected by the draft order under §305.C or §505.B.

4. Notice of the hearing shall contain the date, time and location of the hearing and the location of materials available for public inspection.

5. Such notice shall be published in the official state journal and official parish journal of each parish affected by the commissioner's petition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1586 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:

§503. Rules of Conduct

A. Hearings scheduled pursuant to this subpart shall be fact-finding in nature and cross-examination of the witnesses shall be limited to the commissioner and staff.

1. The commissioner, or a designee, shall serve as presiding officer, and shall have the discretion to establish reasonable limits upon the time allowed for statements.

2. The applicant may first present all relative information supporting their proposal followed by testimony and/or evidence from local, state and federal agencies and others.

3. All interested parties shall be permitted to appear and present testimony, either in person or by their representatives.

4. All hearings shall be recorded verbatim.

5. Copies of the transcript shall be available for public inspection at the Office of Conservation.

6. The testimony and all evidence received shall be made part of the administrative record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1586 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:

§505. Decision of the Commissioner

A After hearings held pursuant to §305.C or §501.A, the commissioner shall issue a written decision in the form of a draft order based on scientifically sound data gathered from the application, the participants in the public hearing, and any other relevant information. The draft 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

2. the recommended plan to preserve and manage the ground water resources of the critical ground water area pursuant to R.S. 38:3097.6.B.

B. The commissioner shall make the draft order and proposed plan to preserve and manage ground water resources of the proposed critical ground water area available to the applicant, participants in the original application hearing and any other persons requesting a copy thereof. The commissioner in accordance with §501.B shall initiate hearings on the draft order and proposed management controls in the locality of those affected by the commissioner's draft order.

C. Final Orders. The commissioner shall adopt final orders and plan to preserve and mange ground water resources after completion of §501.B. The final orders shall be made a part of the permanent records of the commissioner in accordance with §311 and shall be made available to the public upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1586 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:

§507. Right of Appeal

A. Critical Ground Water Area Designation orders of the commissioner may be appealed only to the Nineteenth Judicial District Court as provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:

Chapter 7. Water Well Notification Requirements in Non-Critical Ground Water Areas

§701. Applicability

A. All new water wells, pursuant to Subsections B and C of this Section, are required to be installed by a licensed drilling contractor, pursuant to LAC 46:LXXXIX, and registered through the Department of Transportation and Development (DOTD) pursuant to LAC 57:I et seq. within 30 days after completion.

B. All new water wells except those types specifically listed in Subsection D of this Section, require a Water Well Notification form be submitted to the Commissioner at least 60 days prior to installation by the owner of the well.

C. All new water wells, pursuant to Subsections D of this Section, require a Water Well Notification form be submitted to the Commissioner no later than 60 days after installation by the owner of the well, pursuant to R.S. 38:3097.3.C(4)(a).

D. Water well types that require notification to the commissioner after installation are:

1. domestic well;
2. replacement well;
3. drilling rig supply well;
4. drought relief well;

a. use of the drought relief well type must be approved by the commissioner, pursuant to R.S. 38:3097.3(C)(9), prior to installation; and

5. all other wells the commissioner exempts for just cause:

a. there shall be no just cause exemptions granted for large volume wells;

b. the commissioner shall base exemptions on, but not limited to:

i. proximity to other wells;
ii. beneficial use; or
iii. latest scientific data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:

§703. Notification Requirements

A. Pursuant to R.S. 38:3097.3.C(4)(a), the commissioner is authorized to collect the following information on the Water Well Notification form:

1. date drilled or estimated date to be drilled;
2. name of driller;
3. current ownership;
4. projected location of the well in longitude and latitude;
5. depth;
6. casing size; and
7. other reasonable information required by the commissioner.

B. Pursuant to §703.A.7, the following reasonable information is required by the commissioner on the Water Well Notification form:

1. Purpose of Form, including but not limited to:
   a. prior notification, pursuant to §701.C;
   b. post notification, pursuant to §701.D;
   c. well exempted for just cause, pursuant to R.S. 38:3097.3.C(4)(a)(v);
   d. drought well authorization, pursuant to R.S. 38:3097.3.C(9);
   e. information change; or
   f. cancellation of notification because well not drilled;
2. Well Information, including but not limited to:
   a. owner's well number;
   b. well use;
   c. aquifer screened; and
   d. estimated pumping rate;
3. Well Location, including but not limited to:
   a. parish; and
   b. longitude and latitude; or
   c. if longitude and latitude is unavailable;
      i. a map with the well location marked; or

ii. a hand drawn map that includes enough detail that someone unfamiliar with the area can find the well;

4. Drilling Contractor, including but not limited to:
   a. driller's contact information;
   b. driller's license number; and
   c. third party or consultant's contact information;
5. Owner's signature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:

§705. Notification Review Process

A. The commissioner shall review the submitted information, pursuant to §701.B, within 30 days.

1. The commissioner may:
   a. issue an order placing restrictions on the well; or
   b. request further reasonable information; or
   c. take no action.

2. Should the commissioner request additional reasonable information for new wells, pursuant to §705.A.1, the commissioner shall have an additional 30 days from the time the information is received to review the Water Well Notification form.

B. For a large volume well, the commissioner may issue to the owner an order within 30 days of receiving prior notification, pursuant to §701.B, with one or more of the following restrictions:

1. fixing allowable production;
2. spacing; and
3. metering.

C. For all other wells in a non-critical ground water area, the commissioner may issue an order to the owner within 30 days of receiving prior notification, pursuant to §701.B, which may only fix spacing of the well.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:

§707. Right of Appeal

A. Within 30 days of the date of the correspondence regarding Paragraphs 1 and 2 of this Subsection, the applicant may appeal to the Ground Water Resources Commission to determine one of the following:

1. the reasonableness of the commissioner's request, pursuant to Section §705.A; or

2. the justification for the commissioner's well restriction order, pursuant to Section §705.B and C.

B. The appeal shall be addressed to:

Ground Water Resources Commission
Post Office Box 94275
Baton Rouge, LA 70804-9275
ATTN: Chairperson, Ground Water Resources Commission

C. The Commission may make a determination within 45 days from the date of the appeal, pursuant to R.S. 38:3097.3.C(4)(b)(iii), regarding the reasonableness of the commissioner's request, pursuant to Subsection A.1 of this Section.

D. The Commission may review the appeal of an applicant, pursuant to Subsection A.2 of this Section, and may make a determination regarding the commissioner's well restriction order.

1. The Commission may reject the commissioner's order and require the commissioner to reconsider such order.

2. An order that has been returned to the commissioner twice shall be considered a final decision.

E. Final decisions of the commissioner must be appealed to the Nineteenth Judicial District Court as provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:

James H. Welsh
Commissioner

0404#004

DECLARATION OF EMERGENCY

Department of Treasury
Board of Trustees of the Louisiana State Employees' Retirement System

Self-Directed Plan (LAC 58:I.Chapter 41)

Under the authority of R.S. 11:515 and in accordance with R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") advertises its intent to enact LAC 58.I.4101 through 4133.

This emergency enactment is made necessary by the passage into law of Act 818 of the Regular Session of the Louisiana Legislature. That Act established the Self-Directed Plan ("SDP"), a new form of the Deferred Retirement Option Plan ("DROP") already administered by LASERS. Act 818 becomes effective January 01, 2004. This Rule is necessary to complete the implementation of the SDP and are being adopted in identical form through the ordinary promulgation process.

This Rule shall become effective on April 20, 2004, and shall remain in effect for 120 days or until they become effective through the normal promulgation process, whichever comes first.

Title 58
RETIREMENT
Part I. State Employees' Retirement
Chapter 41. The Self-Directed Plan
§4101. SDP Provider

A. The System shall procure a single provider, selected by a competitive process, for participants in the Self-Directed Plan ("SDP") to utilize in providing investment options for the deposits made during the accumulation period in the Deferred Retirement Option Plan ("DROP") or funds acquired through the Initial Benefit Option ("IBO"). The investment options shall not be available to the participants until the DROP funds are transferred to the SDP provider at the end of the accumulation period, or after the IBO funds are so transferred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 30:

§4103. Persons Vesting for DROP Prior to January 01, 2004

A. Persons who became eligible for regular retirement prior to January 01, 2004 are eligible for participation in the SDP. Those persons may make an irrevocable election to transfer their DROP funds into the SDP. The DROP or IBO participants electing to transfer their funds into the SDP must transfer their entire DROP or IBO balance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 30:

§4105. Eligibility for Transfer of Funds into SDP

A. The only funds which may be transferred into the SDP are LASERS DROP or IBO funds. Transfers or rollovers from other sources shall not be allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 30:

§4107. Rollovers out of SDP to Other Providers

A. At all times after becoming eligible to withdraw funds from the SDP, DROP participants may elect to rollover funds to eligible providers. Such rollovers shall be subject to applicable Federal laws and the terms of the SDP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 30:

§4109. Right to Recover Overpayments

A. In the event of overpayment of funds are made by LASERS, then LASERS retains the ability at all times to recall funds from member at provider or to reduce future benefits pursuant to R.S. 11:192 to recover any such overpayment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 30:

§4111. Time to Transfer Funds

A. LASERS shall forward the entire deposit balance of a participant to the third party administrator within 5 working days from the end of the DROP accumulation period. LASERS may supplement or otherwise correct balances forwarded in those instances where there are errors, missing documents or incomplete reports submitted by agencies reporting earnings for the participant.

B. For participants in the Initial Benefit Option ("IBO") or for those DROP participants whose accumulation period is less than six months, LASERS shall transfer 80% of the DROP/IBO balance within 45 days from the date of initial transfer into the SDP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 30:

§4113. Spousal Consent

A. LASERS may halt the processing of a participant's request to enter the SDP until any spousal consent form required by law, LASERS or proof of divorce has been presented to the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 30:

§4115. Completion of Notification Form

A. All DROP participants shall complete and submit a form (#9-2 or #9-2a) to inform LASERS that they are ending the accumulation period. This form shall be submitted at least 30 days prior to that date. Failure to submit this form could result in delaying access to DROP funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 30:

§4117. Distributions

A. Distributions shall be in accordance with the provisions of Chapter 27, Title 58, Part I of the Louisiana Administrative Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 30:

§4119. No In-Service Distribution

A. Distributions prior to the date of termination from employment with the state of Louisiana are strictly prohibited in accordance with applicable Internal Revenue Code Provisions. The selected provider shall not make a distribution without a verification of termination from LASERS.

AUTHORITY NOTE: Promulgated in accordance with RS. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 30:

§4121. Civil Service Reinstatement

A. DROP participants who have been removed from state employment, then reinstated pursuant to a ruling by the Civil Service board, shall immediately notify LASERS in writing of their reinstatement, along with a projected date of retirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 30:

§4123. Beneficiary

A. Each participant shall initially designate a beneficiary or beneficiaries to receive any amounts which may be distributed in the event of the death of the participant prior to the complete distribution of benefits. A participant may change the designation of beneficiaries at any time by filing a written notice on a form approved by LASERS. If no such designation is in effect at the time of participant's death, or if the designated beneficiary does not survive the participant by 30 days, his beneficiary shall be his surviving spouse, if any, and then his estate

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 30:

§4125. Investment Options

A. LASERS shall in its sole discretion select certain investment options to be used to determine income to be accrued on deferrals. These investment options may include specified life insurance policies, annuity contracts, or investment media issued by an insurance company. In any event, it shall be the sole responsibility of LASERS to

ensure that all investment options offered under the Plan are appropriate and in compliance with any and all state laws pertaining to such investments.

B. In the absence of a written directive from the participant, the provider shall automatically invest the participant's DROP funds in its discretion in an appropriate interim investment until specific investment directions are received. Such instructions regarding the delegation of investment responsibility shall remain in force until revoked or amended in writing by the participant. LASERS shall not be responsible for the propriety of any directed investment.

C. LASERS may, from time to time, change the investment options under the Plan. If LASERS eliminates a certain investment option, all participants who had chosen that investment shall select another option. If no new option is selected by the participant, money remaining in the eliminated investment option shall be moved at the direction of LASERS. The participants shall have no right to require LASERS to select or retain any investment option. To the extent permitted by and subject to any rules or procedures adopted by the administrator, a participant may, from time to time, change his choice of investment option. Any change with respect to investment options made by LASERS or a participant, however, shall be subject to the terms and conditions (including any rules or procedural requirements) of the affected investment options and may affect only income to be accrued after that change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 30:

§4127. Participant Investment Direction

A. Participants shall have the option to direct the investment of their personal contributions and their share of any employer contributions among alternative investment options established as part of the overall SDP, unless otherwise specified by LASERS. A participant's right to direct the investment of any contribution shall apply only to making selections among the options made available under the SDP.

B. Each participant shall designate on the proper form or via website or telephone direction the investment that shall be used to determine the income to be accrued on amounts deposited. If the investment chosen by the participant experiences a gain, the participant's benefits under the SDP likewise shall reflect income for that period. If the investment chosen by a participant experiences a loss, or if charges are made under such investment, the participant's benefits under the SDP likewise shall reflect such loss or charge for that period.

C. Neither the State of Louisiana, LASERS, the administrator, nor any other person shall be liable for any losses incurred by virtue of following the participant's directions or with any reasonable administrative delay in implementing such directions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 30:

§4129. Distributions from the Plan

A. The payment of benefits in accordance with the terms of the Plan may be made by the trustee, or by any custodian or other person so authorized by LASERS to make such distribution. Neither LASERS, the trustee nor any other person shall be liable with respect to any distribution from the Plan made at the direction of the employer or a person authorized by the employer to give disbursement direction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 30:

§4131. Domestic Relations Orders

A. In all instances wherein a person beginning participation in the SDP is a party to a Domestic Relations Order ("DRO"), properly worded and approved by LASERS, and such DRO is to divide DROP funds with the participant's former spouse, LASERS shall establish a means whereby the former spouse may choose the investment options for his or her portion of the SDP.

B. The selection of investment options shall be in accordance with §4125 of this Chapter.

C. Withdrawals from the SDP by either the member spouse (under whom all service credit accumulated) or the former spouse are prohibited until such time as the member spouse terminates state employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 30:

§4133. Disclaimer

A. LASERS makes no endorsement, guarantee or any other representation and shall not be liable to the Plan or to any participant, beneficiary, or any other person with respect to:

1. the financial soundness, investment performance, fitness, or suitability (for meeting a participant's objectives, future obligations under the Plan, or any other purpose) of any investment option in which amounts deferred under the Plan are actually invested; or

2. the tax consequences of the Plan to any participant, beneficiary or any other person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 30:

Robert L Borden
Executive Director

0404#008

DECLARATION OF EMERGENCY

Department of Treasury
Parochial Employees' Retirement System

Definitions; Eligibility; Scope of Benefits
(LAC 58:XI.103, 301, 303, 501, 505, and 509

The Parochial Employees' Retirement System promulgates the following Emergency Rule as authorized by R.S. 11:1931, which provides that Rules and Regulations be adopted which will assure that the Parochial Employees' Retirement System will remain a tax-qualified retirement plan under the United States Internal Revenue Code and the regulations thereunder. This Emergency Rule is promulgated 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 Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Board of Trustees for the Parochial Employees' Retirement System adopted this Rule on March 8, 2004, which was to be made effective as of April 20, 2004, the date of publication in the *Louisiana Register*. This intended action complies with the statutory law administered by the Board of Trustees for the Parochial Employees Retirement System.

These proposed Rules are meant to bring the Parochial Employees Retirement System into compliance with the United States General Agreement on Tariffs and Trade, the Uniformed Services Employment and Reemployment Rights Act of 1996, the Small Business Job Protection Act of 1996, and the Taxpayer Relief Act of 1997 (collectively known as GUST), and the Economic Growth and Tax Relief Reconciliation Act of 2001 (known as EGTRRA). These amendments to the Parochial Employees Retirement System were approved by the United States Internal Revenue Service pursuant to an IRS determination letter and were required to be implemented within 91 days of the issuance of the IRS determination letter.

Accordingly, the Board of Trustees for the Parochial Employees' Retirement System has determined that these Emergency Rules are necessary to avoid sanction or penalties from the United States Internal Revenue Service, and are necessary to maintain the Parochial Employees' Retirement System as a "qualified retirement plan" as that term is defined in the U.S. Internal Revenue Code.

Title 58
RETIREMENT
Part XI. Parochial Employees' Retirement System
Chapter 1. General Provisions
§103. Definitions

A. …

* * *

Eligible Retirement Plan? an Individual Retirement Account described in Internal Revenue Code Section 408(a), an individual retirement annuity described in Section 408(b), an annuity plan described in Internal Revenue Code Section 403(a), or a qualified trust described in Internal Revenue Code Section 401(a), that accepts the distributee's eligible rollover distributions. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an Individual Retirement Account or individual retirement annuity. An eligible retirement plan shall also mean an annuity contract described in Internal Revenue Code Section 403(b) and an eligible plan under Internal Revenue Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this system. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order.

Eligible Rollover Distribution?

a.i any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

ii. any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life, or life expectancy, of the distributee or the joint lives, or joint life expectancies, of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

iii. any distribution to the extent such distribution is required under Internal Revenue Code Section 401(a)(9);

iv. the portion of any distribution that is not includable in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities;

b. a hardship distribution.

2. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution or qualified defined benefit plan described in Code Section 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:508 (March 2003), amended LR 30:

Chapter 3. Eligibility
§301. Persons not Eligible for Membership; Leased Employees

A. Leased employees or persons considered by the system as leased employees of an employer shall not be eligible to participate. Leased employee shall mean any person who is not employed by an employer and pursuant to an agreement between the employer and any other person or entity ("leasing organization") has performed services for the employer (or for related persons determined in accordance with section 414(n)(6) of the Internal Revenue Code) on a substantially full-time basis for a period of at least 1 year, and such services are performed under primary direction or control by the employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:

§303. Creditable Service; Uniformed Services Employment and Reemployment Rights Act

A. If a member takes a leave of absence to serve in the U.S. armed services, the terms of which are governed by the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), then upon the member's return to employment with the employer within five years from the leave of absence, the member shall be permitted to make the member contributions called for under the system as if the member had continued employment, and if so made, the member shall be given creditable service under the system for that period of time. The member contributions to the system as permitted under this Section shall be made ratably

over a period of time equaling the period the member was in the U.S. armed services, but in no event shall such period exceed five years. If the returning member makes the member contribution, the employer shall be required to make an employer contribution to fund the employer's portion of the creditable service given to the returning member. The amount of the member's contribution and the employer's contribution shall be determined by the system's actuary. A member who does not return to employment with his employer shall not be affected by this provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:

Chapter 5. Scope of Benefits

§501. Limitation on Payment of Benefits

A. - E.1. …

2. The required beginning date shall be April 1 of the calendar year following the later of the calendar year in which the member attains 70 1/2 years of age, or the calendar year in which the employee retires. Effective for plan years beginning on or after January 1, 1998, the required beginning date shall be April 1 of the year following the later of the year the member attained 70 1/2 or the year he terminated employment.

F. …

AUTHORITY NOTE: Promulgated in accordance with RS. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:508 (March 2004), amended LR 30:

§505. Compensation Limited

A. In addition to other applicable limitations set forth in the plan, and notwithstanding any other provisions of the plan to the contrary, for plan years beginning on or after January 1, 1994 and before January 1, 2002, the annual compensation of each employee taken into account under the plan shall not exceed the Omnibus Budget Reconciliation Act of 1993 annual compensation limit. The Omnibus Budget Reconciliation Act of 1993 annual compensation limit is $150,000, as adjusted by the commissioner of Internal Revenue for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code (see 26 U.S.C. 401 et seq.). The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the Omnibus Budget Reconciliation Act of 1993 annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

B. For plan years beginning on or after January 1, 1994 and before January 1, 2002, any reference in this plan to the limitations under Internal Revenue Code Section 401(a)(17) shall mean the Omnibus Budget Reconciliation Act of 1993 annual compensation limit set forth in this Section.

C. …

D. For plan years beginning on or after January 1, 2002, the annual compensation limitation (section 401(a)(17) of the Internal Revenue Code) for the determination of a retirement allowance shall not exceed $200,000, as adjusted for cost-of-living under paragraph 401(a)(17)(B) of the Internal Revenue Code. If compensation for a prior period is taken into account in determining a member's benefits accruing in the current plan year, the compensation for the prior period shall be subject to the compensation limit for the current year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:509 (March 2004), amended LR 30:

§509. Computation of Retirement Benefits

A. - D.1.b.iii. …

2. A member's retirement allowance shall be limited to $160,000. The $160,000 amount shall be adjusted for members retiring before age 62 or after age 65 under Internal Revenue Code Section 415(b)(2). The benefit limitation in the foregoing sentence shall be further adjusted by multiplying such limitation by the cost of living adjustment factor prescribed by the Secretary of the Treasury under Internal Revenue Code Section 415(d) in such manner as the Secretary shall prescribe. The new limitation will apply to limitation years ending within the calendar year of the date of the adjustment.

3. - 5.b.ii. Repealed.

6. Adjustment for Less than 10 Years of Creditable Service

a. If retirement benefits are payable under this retirement system to a member who has less than 10 years of creditable service in the retirement system, the dollar limitation referred to in the first Paragraph of this Subsection ($90,000) will be multiplied by a fraction, the numerator of which is the member's number of years of creditable service in the system (not greater than 10), and the denominator of which is 10.

i. Effective for plan years beginning on or after January 1, 2002, "$160,000" will be substituted for "$90,000" above.

b. Repealed.

7. Annual Adjustment. The limitation provided in this Subsection shall be adjusted annually to the maximum dollar limits allowable by the secretary of the Treasury of the United States under Internal Revenue Code Section 415(d), such adjustments not to take effect until the first day of the fiscal year following December 31, 1987. The adjustment shall not exceed the adjustment in effect for the calendar year in which the fiscal year of the system begins. The adjusted earlier limitation is applicable to employees who are members of the system and to members who have retired or otherwise terminated their service under the system with a nonforfeitable right to accrued benefits, regardless of whether they have actually begun to receive benefits. This system shall be considered specifically to provide for such post-retirement adjustments. For any limitation year beginning after separation from service occurs, the annual adjustment factor is a fraction, the numerator of which is the adjusted dollar limitation for the limitation year in which the compensation limitation is being adjusted and the denominator of which is the adjusted dollar limitation for the limitation year in which the member separated from service. No adjustment shall be permitted with respect to limitations applicable after October 14, 1987.

8. - 10. …

a. For purposes of R.S. 11:1942, 1962, and 1972, average compensation shall include any amounts properly considered as the regular rate of pay of the member, as defined in R.S. 11:231 and unreduced by amounts excluded from income for federal income tax purposes by reason of 26 U.S.C.A. §§125, 132(f), 402(a)(8), 402(h)(1)(B), 403(b), 414(h), or 457 or any other provision of federal law of similar effect.

b. For purposes of Subsection D, average compensation shall include total compensation payable by the employer and included in the employee's income for federal income tax purposes and shall exclude amounts not includable in the member's gross income by reason of 26 U.S.C.A. §§125, 132(f), 402(a)(8), 402(h)(1)(B), 403(b), 414(h) and 457 or any other provision of federal law. A member's highest three years shall be the period of consecutive calendar years (not more than three) during which the member both was an active participant in the plan and had the greatest aggregate compensation from the employer.

11. - 11.b. Repealed.

12. …

E. All member contributions required to be made to this system shall be considered for tax purposes as contributions made pursuant to Internal Revenue Code Section 414(h)(2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:510 (March 2004), amended LR 30:

Thomas B. Sims
Administrative Director
and
Dainna S. Tully
Assistant Director

0404#058

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Public Oyster Season Extension? Lake Borgne

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S. 49:967(D), and under the authority of R.S. 56:433(B)1 which provides that the Wildlife and Fisheries Commission may designate what parts or portions of the natural reefs may be fished for oysters, and a Resolution adopted by the Wildlife and Fisheries Commission on August 6, 2003 which authorized the Secretary of the Department of Wildlife and Fisheries to take emergency action to open areas if significant oyster resources are located, the secretary hereby declares:

The oyster season in the Lake Borgne Public Oyster Seed Ground as described in LAC 76:VII.513, including the three additional areas within Lake Borgne designated by the Wildlife and Fisheries Commission on January 8, 2004, will be extended until one-half hour after sunset on April 24, 2004.

Significant oyster resources remain within the Lake Borgne Public Oyster Seed Ground as evidenced by recent sampling by departmental biologists. It has been determined that limited additional harvest will not harm the integrity of the resource in this area and the Louisiana Oyster Task Force voted in support of this extension at its recent meeting held on March 10, 2004.

Dwight Landreneau
Secretary

0404#006

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Public Oyster Seed Ground Addition? Lake Borgne
(LAC 76:VII.513)

In accordance with emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S. 49:957 which allows the Wildlife and Fisheries Commission to use emergency procedures to set oyster seasons, and in accordance with R.S. 56:6(12) and R.S. 56:434(A) which allows the Commission to enlarge the natural reefs of the state and to designate and set aside state water bottoms for the planting, growth, propagation, and policing of seed oysters, and under the authority given the Secretary by the Wildlife and Fisheries Commission on January 8, 2004 to take all necessary steps to effectuate the Declaration of Emergency and Notice of Intent, the Wildlife and Fisheries Commission hereby continues to declare and designate additional public oyster seed ground acreage on those water bottoms of Lake Borgne in St. Bernard Parish, more specifically described below, to be added to the Lake Borgne Public Oyster Seed Ground as described in Louisiana Administrative Code (LAC) 76:VII.513.

Due to the declining availability of oyster resources on the Lake Borgne Public Oyster Seed Ground, the current oyster lease moratorium on the issuance of new oyster leases, and the availability of oyster resource located on un-leased water bottoms adjacent to the current Lake Borgne Public Oyster Seed Ground, the expansion of the Lake Borgne Public Oyster Seed Ground is needed to enhance the economic sustainability of the Louisiana oyster industry. The oyster resource in this area would be immediately placed under active state management for the long-term benefit of the resource and protection of the natural reefs. Without the presence of the current oyster lease moratorium, this area would be open for leasing and, thus, the oyster resource would be available for harvest.

All statutes, regulations, and policies pertaining to the use of public oyster grounds will be in force in the additional Lake Borgne Public Oyster Seed Grounds described in Paragraphs 2, 3, and 4 below with the exception of any additional mitigation requirements levied from time to time for construction, oil and gas exploration, or pipeline construction activities for the term of this Declaration of Emergency.

In addition, the X and Y coordinates (1927 datum) used to describe the existing Lake Borgne Public Oyster Seed

Grounds shall be converted to Latitude and Longitude (1983 datum) so as to comply with R.S. 50:11.

This Declaration of Emergency will become effective May 6, 2004 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

Therefore, the Wildlife and Fisheries Commission does hereby declare the following water bottoms of Lake Borgne as described below as the Lake Borgne Public Oyster Seed Ground.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 5. Oyster
§513. Public Oyster Seed Ground Addition? Lake Borgne

A. The Lake Borgne Public Oyster Seed Ground is described as that portion of the state water bottoms:

1. Beginning at the most northerly point of Malheureux Point latitude 30° 04' 48.216" north, longitude 89° 29? 02.247? west on the southern shoreline of Lake Borgne; thence southwesterly a distance of 16.6 miles to the most easterly point of Proctor Point latitude 29° 56' 46.459" north, longitude 89° 42' 51.039" west on the southwestern shoreline of Lake Borgne; thence northerly a distance of 5.6 miles to the most easterly point of Alligator Point latitude 30° 01' 39.731" north, longitude 89° 43' 01.767" west on the northern shoreline of Lake Borgne; thence northeasterly along the northern shoreline of Lake Borgne a distance of 19.1 miles to the intersection with the western shoreline of the Pearl River latitude 30° 10' 39.633" north, longitude 89° 31' 53.828" west; thence northerly along the western shoreline of the Pearl River a distance of 0.25 miles to a point latitude 30° 10' 52.888" north, longitude 89° 31' 53.736" west on the western shoreline of the Pearl River; thence easterly a distance of 1.15 miles to the Pearl River Beacon No. 8 latitude 30° 11' 00.429" north, longitude 89° 31' 28.187" west; thence southeasterly a distance of 7.5 miles to the point of beginning.

2. Beginning at the southeastern corner of the existing Lake Borgne Public Oyster Seed Ground as described in Paragraph 1 above, which is the most easterly point of Proctor Point, at latitude 29° 56' 46.459" north, longitude 89° 42? 51.039? west; thence westerly along the shoreline of Lake Borgne to latitude 29° 55' 54.300" north, longitude 89° 47' 57.000" west; thence north to latitude 30° 00' 46.000" north, longitude 89° 47' 57.000" west; thence east to the western boundary of the existing Lake Borgne Public Oyster Seed Ground at latitude 30° 00' 46.000" north, longitude 89° 42' 59.799" west; thence southerly along the western boundary of the existing Lake Borgne Public Oyster Seed Ground to the point of beginning.

3. Beginning at the southeastern corner of the existing Lake Borgne Public Oyster Seed Ground as described in Paragraph 1 above, which is the most easterly point of Proctor Point, at latitude 29° 56' 46.459" north, longitude 89° 42' 51.039" west; thence northeasterly along the southern boundary of the existing Lake Borgne Public Oyster Seed Ground to latitude 30° 01' 18.470" north, longitude 89° 35' 03.662" west; thence southwesterly to latitude 29° 53' 22.749" north, longitude 89° 42' 12.538" west; thence northwesterly to a point on the shoreline of Lake Borgne at latitude 29° 56' 12.711" north, longitude 89° 44' 11.750" west; thence northeasterly along the shoreline of Lake Borgne to the point of beginning.

4. Beginning at a point on the southern boundary of the existing Lake Borgne Public Oyster Seed Ground, as described in Paragraph 1 above, at latitude 30° 01' 25.814" north, longitude 89° 34' 51.025" west; thence northeasterly along the southern boundary of the existing Lake Borgne Public Oyster Seed Ground to latitude 30° 04' 01.816" north, longitude 89° 30' 22.277" west; thence southerly to latitude 30° 02' 25.177" north, longitude 89° 30' 22.277" west; thence southwesterly to latitude 30° 00' 26.497" north, longitude 89° 34' 05.521" west; thence northwesterly to the point of beginning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(12) and R.S. 56:434(A).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 30:

Dwight Landreneau
Secretary

0404#009

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Shrimp Reopening in Portion of State Outside Waters

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 have the authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicates that marketable shrimp, in sufficient quantities, are available for harvest, and a resolution adopted by the Wildlife and Fisheries Commission on January 8, 2004 which authorizes the Secretary of the Department of Wildlife and Fisheries to reopen any area closed to shrimping when the closure is no longer necessary, the secretary hereby declares:

That State Outside Waters from the eastern shore of the Atchafalaya River Ship Channel at Eugene Island as delineated by the Channel red buoy line to the eastern shore of Belle Pass at latitude 29?05'07" N and longitude 90?13'30" W, shall reopen to shrimping at 6:00 a.m., Monday, April 5, 2004.

According to recent shrimp samples taken by department personnel, small white shrimp which have over-wintered in these waters from January through March have reached marketable sizes and the closure is no longer necessary. Significant numbers of small white shrimp still remain in State Outside Waters west of the Atchafalaya River Ship

Channel to the western shore of Freshwater Bayou Canal at longitude 92?18'33" W, and this area will remain closed to shrimping until further notice.

Dwight Landreneau
Secretary

0404#005

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Small Coastal Shark Fishery Closure

In accordance with the emergency provisions of R.S. 49:953(B), 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 rule LAC 76:VII.357.M.2 which allows the secretary to declare a closed season when he is informed that the commercial small coastal shark seasonal quota for that species group and fishery has been met in the Gulf of Mexico, and that such closure order shall close the season until the date projected for the re-opening of that fishery in the adjacent Federal waters, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Effective 11:30 p.m., March 18, 2004, the commercial fishery for small coastal sharks in Louisiana waters, as described in LAC 76:VII.357.B.1 (bonnethead shark, Atlantic sharpnose shark, blacknose shark and finetooth shark) will close through June 30, 2004. Nothing herein shall preclude the legal harvest of small coastal sharks by legally licensed recreational fishermen during the open season for recreational harvest. Effective with this closure, no person shall commercially harvest, purchase, exchange, barter, trade, sell or attempt to purchase, exchange, barter, trade or sell small coastal sharks or fins thereof within or without Louisiana territorial waters. Also effective with the closure, no person shall possess small coastal sharks in excess of a daily bag limit, which may only be in possession during the open recreational season. Nothing shall prohibit the possession or sale of fish by a commercial dealer if legally taken prior to the closure providing that all commercial dealers possessing small coastal sharks taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The secretary has been notified by the National Marine Fisheries Service that the first semi-annual quota for small coastal sharks will be reached on or before March 18, 2004 and that the federal season closure is necessary to ensure that the semi-annual quota for small coastal sharks for the period January 1 through June 30, 2004 is not exceeded.

Dwight Landreneau
Secretary

0404#001

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Spotted Seatrout Recreational Regulations

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set size limits for saltwater finfish, and R.S. 56:325.1(A)2 and B; the Wildlife and Fisheries Commission hereby adds the following Rule for the recreational harvest of spotted seatrout to be effective 12:01 a.m., Monday, April 26, 2004:

Within those areas of the state, including coastal territorial waters, south of Interstate 10 from its junction at the Texas-Louisiana boundary eastward to its junction with Louisiana Highway 171, south to Highway 14, and then south to Holmwood, and then south on Highway 27 through Gibbstown south to Louisiana Highway 82 at Creole and south on Highway 82 to Oak Grove, and then due south to the western shore of the Mermentau River, following this shoreline south to the junction with the Gulf of Mexico, and then due south to the limit of the state territorial sea, of the daily take and possession limit of 25 fish currently set out at R.S. 56:325.1A.(2)(b), no person shall possess, regardless of where taken, more than five spotted seatrout exceeding 25 inches total length. Those spotted seatrout exceeding 25 inches in length shall be considered as part of the daily recreational bag limit and possession limit.

Bill A. Busbice, Jr.
Chairman

0404#010

Rules

RULE

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Confidential Information and Records
(LAC 33:I.Chapter 5)(OS050)

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 Office of the Secretary regulations, LAC 33:I.501, 502, 503, 505, 507, 508, 509, and 511 (Log #OS050).

This revision clarifies the procedures for submission of information and records that meet the criteria for confidentiality under R.S. 30:2030 and the Louisiana Public Records Act, R.S. 44:1 et seq. This revision streamlines procedures by separating the types of submissions and what is required for department processing of each type. This revision also clarifies what information and records will and will not be available to the public in favor of maximum availability of non-confidential information. To achieve this goal, which is consistent with and required by the Louisiana Constitution, art. 7, §12, and art. 12, §3, as well as the Public Records Act, R.S. 44:31(B)(1), those members of the public who submit information and records for which they seek confidentiality must carefully delineate how the submission meets the criteria for confidentiality and segregate confidential from non-confidential information that does not meet the criteria for confidentiality. The amendment clarifies that the burden is on the submitter to provide everything necessary for the department to determine whether confidentiality may be granted. The amendment also reduces the burden on the submitter for purely financial information/records submissions; this change will allow streamlined department processing for this category of submissions. This amendment to restructure and clarify the procedures for various types of confidentiality submissions is required based upon the department's experience with submissions under the current regulations. The basis and rationale for this Rule are two-fold. The basis is the need for increased compliance with department requirements for submission of items for which confidentiality is requested and the need for certainty whether each individual item submitted will or will not be available to the public in some form. The rationale is that while certain information or records may meet the criteria for confidentiality, the law requires that, to the extent possible, confidential information be separated so that the public may have access to the non-confidential information.

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. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 1. Departmental Administrative Procedures
Chapter 5. Confidential Information Regulations

§501. Scope

A. Department of Environmental Quality information and records obtained under the Louisiana Environmental Quality Act, or by any rule, regulation, order, license, registration, or permit term or condition adopted or issued thereunder, or by any investigation authorized thereby, shall be available to the public, unless confidentiality is requested in writing and the information or records are determined by the department to require confidentiality.

B. Unless otherwise provided by law or regulation, information or records may be classified as confidential if the secretary makes a written determination that confidentiality is necessary to:

1. prevent impairment of an ongoing investigation;
2. prevent prejudice to the final decision regarding a violation;
3. protect trade secrets;
4. protect proprietary secrets;
5. protect commercial or financial information; or
6. comply with federal or state law or regulation or a valid court order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:342 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000), LR 30:742 (April 2004).

§502. Definitions

Administrative Authority? repealed.

Air Emission Data? any information necessary or used to determine or calculate the identity, amount, frequency, concentration, or other characteristic of any emission or discharge that has been emitted or discharged by a source; or any information necessary or used to determine or calculate the identity, amount, frequency, concentration, or other characteristic of an emission that, under an applicable standard or limitation, a source was authorized to emit or discharge including, to the extent necessary to identify the source and to distinguish it from other sources, a description of the device, installation, or operation constituting the source. This includes the calculation of an "allowable" emission limit for a permit.

Complete? in reference to a request for confidentiality of information or records, the request contains everything necessary for a determination to be made. Designating a request complete does not preclude the department from requesting or accepting an amended request.

Financial Request? a single character request that contains financial information or records only. This includes, but is

not limited to, financial accounts statements, gross revenues statements, profit and loss statements, projected revenues statements, tax returns, financial/accounting statements, and financial audit documentation/reports.

Mixed Character Record? a record submitted as part of a request for confidentiality that, in addition to information that meets the criteria for confidentiality specified by law, also contains information that either does not meet the criteria for confidentiality specified by law or is prohibited by law or regulation from being classified as confidential.

Mixed Character Request? a request for confidentiality that contains one or more mixed character records.

Single Character Request? a request for confidentiality that contains only information or records that meet the criteria for confidentiality specified by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000), amended LR 30:742 (April 2004).

§503. Requests for Confidentiality

A. Each request for confidentiality shall include all of the following:

1. a statement whether the request for confidentiality is a single character request, a mixed character request, or a financial request;

2. a list or an index identifying each separate record, category of records, or item of information and stating the legal authority under which each separate record or item of information may be determined to require confidentiality;

3. a statement of the measures taken to guard against undesired disclosure to others of each record or item of information;

4. a statement of the extent to which the information or records have been disclosed to others and the precautions taken in connection therewith;

5. a statement whether disclosure of the information or records would be likely to result in substantial harmful effects in the competitive market and, if so:

a. a statement of what those effects would be;

b. a statement of why they should be viewed as substantial; and

c. an explanation of the causal relationship between disclosure and such harmful effects for each record or item of information;

6. a statement whether any previous request for confidentiality has been made to any government agency for the same information or records and, if so, the date of the request and its disposition; and

7. a certification that all statements are true and correct to the best of the requester's knowledge.

B. Each request shall be submitted with two versions of the information or records; one version to be clearly marked "confidential," and the other to be clearly marked "public."

1. The confidential version is to show all information and must clearly indicate what confidential information is excised from the public version.

2. The public version is to have the confidential information excised and must clearly show that confidential information has been excised.

3. Blacking out confidential portions of otherwise public records is permissible, provided that the blacked-out portions are clearly identified in both confidential and public versions.

C. A financial request is not required to comply with the provisions of Paragraphs A.2-5 of this Section.

D. A single character request shall include a certification that no record or item of information is contained in the request that:

1. fails to meet the criteria for confidentiality specified by law; or

2. is prohibited by law or regulation from being classified as confidential.

E. Specific categories of information that are prohibited from being classified as confidential include:

1. air emission data;

2. any permit or portion of a permit issued to a source in accordance with LAC 33:III.507;

3. effluent and discharge data to surface water and groundwater;

4. the location and identification of any buried waste;

5. the name and address of any license, registration, or permit applicant or permittee;

6. all NPDES, LPDES, and other water discharge permit applications or permits and information required by LPDES application forms, including information submitted on the forms and any attachments used to supply information required by the forms;

7. any other information required by law or regulation to be disclosed or made available to the public; and

8. any other information for which a claim of confidentiality is prohibited by law or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:342 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:743 (April 2004).

§505. Responses to Requests for Confidentiality

A. The department shall make a determination and send a written response to the requester by certified mail within a reasonable time from receipt of a complete request for confidentiality, except for those requests made in accordance with R.S. 30:2074(D), in which case the department shall send a written response by certified mail within 21 working days from receipt of a complete request for confidentiality.

B. The department's determination shall become final unless, no later than 30 days after receipt of the written determination, the requester files a written request for a hearing.

C. Information or records for which a complete confidentiality request has been submitted shall be held confidential until the department's determination becomes final. Departmental employees, other than those charged with assessing the request for confidentiality, shall not be given access to such information or records, even if necessary for the performance of their jobs, until the department's determination as to confidentiality becomes final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:342 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:743 (April 2004).

§507. Accessibility

A. If a request for confidentiality is granted, such confidentiality shall not prevent the necessary use of the information or records by department employees or duly authorized officers or employees of local, state, or federal governments in carrying out their responsibilities under law. The secretary or the secretary's designee must duly authorize any officer or employee of local, state, or federal government who seeks access to confidential information or records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030 and 30:2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:343 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:744 (April 2004).

§508. Maintenance of Confidential Information

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:343 (May 1996), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 30:744 (April 2004).

§509. Release of Confidential Information or Records

A. Information or records that are declared confidential to prevent impairment of an ongoing investigation or prejudice to the final decision regarding a violation will be made available for public inspection upon conclusion of the investigation or rendition of the final decision regarding a violation.

B. All other information or records that are declared confidential are subject to public disclosure three years from the date of determination of confidentiality, unless a complete request for continuance of confidentiality is received no later than 180 days prior to the expiration of the three-year period.

C. The submitter of information or records or the submitter's successor or assignee shall notify the secretary, by authentic act, of any information or record that is no longer considered to be confidential and shall release the secretary from any responsibility with regard to any claim of confidentiality concerning that record or information.

D. Renewal of a grant of confidentiality is at the discretion of the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:343 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:744 (April 2004).

§511. Disclosure of Confidential Records or Information

A. Any employee or former employee of the department or anyone acting as a representative of the secretary of the department who is convicted of intentional disclosure or conspiracy to disclose trade secrets or other information that has been determined to be confidential is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than $1,000, imprisonment for up to one year, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 30:744 (April 2004).

James H. Brent, Ph.D.
Assistant Secretary

0404#026

RULE

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Control of Emission of Organic Compounds
(LAC 33:III.2104, 2108, 2115, 2123, 2125, 2143, 2147, 2149, 2151, and 2153)(AQ236)

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.2104, 2108, 2115, 2123, 2125, 2143, 2147, 2149, 2151, and 2153 (Log #AQ236).

This Rule provides reasonably available control technology (RACT) regulations for sources of VOC emissions in the five-parish Baton Rouge ozone nonattainment area that are subject to the new lower major stationary source threshold of 25 tons per year. This Rule also provides clarification to some language that was unclear or confusing. On April 24, 2003, the Environmental Protection Agency reclassified or "bumped up" by operation of the law the Baton Rouge ozone nonattainment area from a classification of "serious" to "severe", effective June 23, 2003 (68 FR 20077). The five-parish Baton Rouge ozone nonattainment area includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge. Under Section 182(i) of the 1990 Clean Air Act Amendments (CAAA), serious ozone nonattainment areas reclassified to severe are required to submit State Implementation Plan revisions addressing the severe area requirements for the one-hour ozone National Ambient Air Quality Standard. Under Section 182(d) of the 1990 CAAA, severe area plans must include requirements for RACT rules for sources of VOC emissions of 25 tons per year, which is the new lower major threshold in the five-parish Baton Rouge ozone nonattainment area. This Rule is also a revision to the Louisiana State Implementation Plan for air quality. The basis and rationale for this Rule are to comply with the provisions of the 1990 Clean Air Act Amendments.

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. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 21. Control of Emission of Organic Compounds
Subchapter A. General
§2104. Crude Oil and Condensate

A. Applicability. This Section applies to any oil and gas production facility (SIC Code 1311), natural gas processing plant (SIC Code 1321), or natural gas transmission facility (SIC Code 4922) that has a potential to emit 25 Tons Per Year (TPY) or more of flash gas to the atmosphere in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge; 50 TPY or more of flash gas to the atmosphere in the parish of Calcasieu; or 100 TPY or more of flash gas to the atmosphere in any other parish.

B. - C.1. …

2. For facilities in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge with a potential to emit less than 250 tons per year of flash gas, aggregated facility flash gas emissions shall be reduced by a minimum of 95 percent or reduced to a potential to emit of less than 25 TPY by means of a federally enforceable permit revision that permanently restricts production, hours of operation, and/or capacity utilization or other equivalent control and requires the maintenance of records to demonstrate compliance with the permit restrictions.

3. For facilities in the parish of Calcasieu with a potential to emit less than 250 tons per year of flash gas, aggregated facility flash gas emissions shall be reduced by a minimum of 95 percent or reduced to a potential to emit of less than 50 TPY by means of a federally enforceable permit revision that permanently restricts production, hours of operation, and/or capacity utilization or other equivalent control and requires the maintenance of records to demonstrate compliance with the permit restrictions.

4. For facilities in parishes other than Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, and West Baton Rouge with a potential to emit less than 250 tons per year of flash gas, aggregated facility flash gas emissions shall be reduced by a minimum of 95 percent or reduced to a potential to emit of less than 100 TPY by means of a federally enforceable permit revision that permanently restricts production, hours of operation, and/or capacity utilization or other equivalent control and requires the maintenance of records to demonstrate compliance with the permit restrictions.

D. - D.3. …

E. Compliance Schedule. For equipment located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, compliance shall be achieved as soon as practicable, but no later than September 1, 1998. For equipment located in the parish of Calcasieu with a potential to emit less than 100 TPY, compliance shall be achieved as soon as practicable, but no later than August 20, 2003. For all other facilities compliance shall be achieved as soon as practicable, but no later than May 1, 1999. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from the promulgation of the regulation revision.

F. - G.5. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1497 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1764 (August 2002), LR 30:745 (April 2004).

§2108. Marine Vapor Recovery

A. Applicability. An affected facility is any marine loading operation serving ships and/or barges loading crude oil, gasoline, or volatile organic compounds (VOC) with an uncontrolled emission of 25 tons per year (TPY) or more of VOC in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, or 100 TPY or greater of VOC in any other parish. Emissions from VOC with a true vapor pressure of less than 1.5 psia at the loading temperature of the liquid are exempt from the control requirements of this Section.

B. - D.3. …

4. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from the promulgation of the regulation revision.

E. - H.2. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 14:704 (October 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:20 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), LR 30:745 (April 2004).

§2115. Waste Gas Disposal

Any waste gas stream containing volatile organic compounds (VOC) from any emission source shall be controlled by one or more of the applicable methods set forth in Subsections A-G of this Section. This Section shall apply to all waste gas streams located at facilities that have the potential to emit 25 TPY or more of VOC in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge; 50 TPY or more of VOC in the parishes of Calcasieu and Pointe Coupee; or 100 TPY or more of VOC in any other parish. This Section does not apply to waste gas streams that must comply with a control requirement, meet an exemption, or are below an applicability threshold specified in another section of this Chapter. This Section does not apply to waste gas streams that are required by another federal or state regulation to implement controls that reduce VOC to a more stringent standard than would be required by this Section.

A. - H.1. …

a. it can be demonstrated that the waste gas stream is not a part of a facility that emits, or has the potential to emit, 25 TPY or more of VOC in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge; 50 TPY or more of VOC in the parishes of Calcasieu

and Pointe Coupee; or 100 TPY or more of VOC in any other parish;

H.1.b. - I.5. …

J. Compliance. All facilities affected by this Section shall be in compliance as soon as practicable but in no event later than August 20, 2003. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from the promulgation of the regulation revision.

J.1. - M. *Waste Gas Stream.* …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:960 (November 1990), LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 19:317 (March 1993), LR 22:1212 (December 1996), LR 24:21 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1764 (August 2002), LR 30:745 (April 2004).

Subchapter B. Organic Solvents

§2123. Organic Solvents

A. - D.7. …

a. the affected portion of the facility will not emit 25 tons per year (TPY) or more of VOC if the facility is located in the parish of Ascension, East Baton Rouge, Iberville, Livingston, or West Baton Rouge, or 50 TPY or more of VOC if located in any other parish;

D.7.b. - G. *Repair and Maintenance Thermoplastic Coating.* …

H. Timing. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from the promulgation of the regulation revision.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:23 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1240 (July 1999), LR 26:2453 (November 2000), LR 28:1765 (August 2002), LR 30:746 (April 2004).

Subchapter C. Vapor Degreasers

§2125. Vapor Degreasers

A. - C.2.j. …

D. Exemptions. Except as required in this Subsection, a vapor degreaser emitting 100 pounds (45 kilograms) or less of volatile organic compounds (VOC) in any consecutive 24-hour period (uncontrolled) is exempt from the provisions of this Section provided the total emissions from all the vapor degreasers at the facility combined are less than 100 tons per year of VOC, uncontrolled. If these two conditions are not met, the provisions of this Section must apply. For the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge, the requirements of this Section apply to all solvent metal cleaners, except as follows.

D.1. - G. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:962 (November 1990), LR 18:1122 (October 1992), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1765 (August 2002), LR 30:746 (April 2004).

Subchapter H. Graphic Arts

§2143. Graphic Arts (Printing) by Rotogravure and Flexographic Processes

A. Control Requirements. No person shall operate or allow the operation of a packaging rotogravure, publication rotogravure, or flexographic printing facility having a potential to emit 25 TPY or more of VOC in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge; having a potential to emit 50 TPY or more of VOC in the parishes of Calcasieu and Pointe Coupee; or having a potential to emit 100 TPY or more of VOC in any other parish, unless VOC emissions are controlled by one of the methods in Paragraphs A.1-5 of this Section. Once a facility is subject to the provisions of this Section, it remains so regardless of future variations in production.

1. - 5. …

B. Applicability Exemption. A rotogravure or flexographic printing facility that has the potential to emit, at full production (8760 hours per year basis), a combined weight of VOC of less than 25 TPY in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge; less than 50 TPY in the parishes of Calcasieu and Pointe Coupee; or less than 100 TPY in any other parish, calculated from historical records of actual consumption of ink, is exempt from the provisions of Subsections A and C of this Section and need only comply with Subsection D of this Section.

C. - D.3. …

E. Timing. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from the promulgation of the regulation revision.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:964 (November 1990), LR 18:1123 (October 1992), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1796 (October 1999), LR 28:1765 (August 2002), LR 30:746 (April 2004).

Subchapter J. Limiting Volatile Organic Compound (VOC) Emissions from Reactor Processes and Distillation Operations in the Synthetic Organic Chemical Manufacturing Industry (SOCMI)

§2147. Limiting VOC Emissions from SOCMI Reactor Processes and Distillation Operations

A. Applicability

1. The provisions of this Subchapter apply to any vent stream discharging to the atmosphere and originating from a process unit in which a reactor process or distillation operation is located. This Subchapter shall apply to all vents located at facilities that emit, or have the potential to emit, 25 tons per year (TPY) or more of volatile organic compounds (VOC), plantwide, in the affected parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, or 50 TPY or more of VOC in the parishes of Calcasieu and Pointe Coupee. Once an operation is considered to be covered by this Subchapter, it shall be so considered ad infinitum. A decision tree is provided (Figure 1) to facilitate determination of applicability to this Subchapter on a per vent basis. The total resource effectiveness (TRE) index value may be applied on an individual process vent stream basis for a given process unit. Compliance with this rule shall be attained within a period of two years after promulgation. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from the promulgation of the regulation revision. Any emission source that is subject to this rule and to the Waste Gas Disposal Rule (LAC 33:III.2115) shall comply with this rule only. This rule shall apply only to Standard Industrial Major Code 28.

A.2. - Figure 1. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:380 (April 1995), amended LR 22:1212 (December 1996), LR 23:1508 (November 1997), LR 23:1510 (November 1997), LR 23:1679 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:746 (April 2004).

Subchapter K. Limiting Volatile Organic Compound (VOC) Emissions from Batch Processing

§2149. Limiting VOC Emissions from Batch Processing

A. Applicability

1. The provisions of this Subchapter apply to process vents associated with batch processing operations. This Subchapter shall apply to the stationary sources that emit, or have the potential to emit, 25 tons per year (TPY) or more of VOC in the affected parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, or 50 TPY or more of VOC in the parishes of Calcasieu and Pointe Coupee. Once an operation is considered to be covered by this Subchapter, it shall be so considered ad infinitum. The scope of affected industries is limited to those industries in the following standard industrial classification (SIC) codes: 2821, 2833, 2834, 2861, 2865, 2869, 2879. Compliance with this rule shall be attained within a period of two years after promulgation. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from the promulgation of the regulation revision. Any emission source that is subject to this rule and to the Waste Gas Disposal Rule (LA C 33:III.2115) shall comply with this rule only.

A.2. - G.2.c.v. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:387 (April 1995), amended LR 22:1212 (December 1996), LR 23:1507 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:747 (April 2004).

Subchapter L. Limiting Volatile Organic Compound (VOC) Emissions from Cleanup Solvent Processing

§2151. Limiting VOC Emissions from Cleanup Solvent Processing

A. Applicability. The provisions of this Subchapter apply to stationary sources that emit, or have the potential to emit, 25 TPY or more of VOC and conduct one or more of the affected cleaning operations in the parish of Ascension, East Baton Rouge, Iberville, Livingston, or West Baton Rouge, or 50 TPY or more of VOC and conduct one or more of the affected cleaning operations in the parish of Calcasieu or Pointe Coupee. Once a source is subject to this Subchapter, it shall be so ad infinitum. Affected cleaning operations are ones that use solvents in the following operations:

A.1. - E. …

F. Timing. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from the promulgation of the regulation revision.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:391 (April 1995), amended LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 30:747 (April 2004).

Subchapter M. Limiting Volatile Organic Compound (VOC) Emissions From Industrial Wastewater

§2153. Limiting VOC Emissions From Industrial Wastewater

A. Definitions. Unless specifically defined in LAC 33:III.111, the terms in this Chapter shall have the meanings normally used in the field of air pollution control. Additionally the following meanings apply, unless the context clearly indicates otherwise.

Affected Source Category? any facilities of the following source categories located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge and having the potential to emit 25 TPY or more of VOC, or located in the parishes of Calcasieu and Pointe Coupee and having the potential to emit 50 TPY or more of VOC:

a. - d. …

* * *

B. - H.5. …

I. Parishes and Compliance Schedules. For the affected facilities in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge, any person who is the owner or operator of an affected source category within a plant shall be in compliance with these regulations no later than November 15, 1996. If an additional affected VOC wastewater stream

is generated as a result of a process change, the wastewater shall be in compliance with this Section upon initial startup or by November 15, 1998, whichever is later, unless the owner or operator demonstrates to the administrative authority* that achieving compliance will take longer. If this demonstration is satisfactory to the administrative authority*, compliance shall be achieved as expeditiously as practicable, but in no event later than three years after the process change. An existing wastewater stream that becomes an affected VOC wastewater stream due to a process change must be in compliance with this Section as expeditiously as practicable, but in no event later than three years after the process change. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from the promulgation of the regulation revision.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:936 (September 1995), amended LR 22:1212 (December 1996), LR 24:26 (January 1998), LR 25:850 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 28:1765 (August 2002), LR 30:747 (April 2004).

James H. Brent, Ph.D.
Assistant Secretary

0404#056

RULE

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Control of Emissions of Nitrogen Oxides (NO_x)
(LAC 33:III.2201)(AQ234)

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 #AQ234).

The revision provisions reasonably available control technology (RACT) rules for sources of nitrogen oxides (NOx) emissions in the five-parish Baton Rouge ozone nonattainment area that are subject to the new lower major stationary source threshold of 25 tons per year. The revision also includes Rule clarifications. On April 24, 2003, the Environmental Protection Agency reclassified or "bumped up" by operation of law the Baton Rouge ozone nonattainment area from a classification of "serious" to "severe", effective June 23, 2003 (68 FR 20077). The five-parish Baton Rouge ozone nonattainment area includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge. Under Section 182(i) of the 1990 Clean Air Act Amendments (CAAA), serious ozone nonattainment areas reclassified to severe are required to submit State Implementation Plan revisions addressing the severe area requirements for the one-hour ozone National Ambient Air Quality Standard. Under Section 182(d) of the 1990 CAAA, severe area plans must include requirements for RACT rules for sources of NOx emissions of 25 tons per year, which is the new lower major source threshold in the five-parish Baton Rouge ozone nonattainment area. This Rule is also a revision to the Louisiana State Implementation Plan for air quality. The basis and rationale of this Rule are to comply with the provisions of the 1990 Clean Air Act Amendments.

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. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

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.

* * *

Affected Facility? any facility within the Baton Rouge Nonattainment Area with one or more affected point sources that collectively emit or have the potential to emit 25 tons or more per year of NO_x, unless exempted in Subsection C of this Section, or any facility within the Region of Influence with one or more affected point sources that collectively emit or have the potential to emit 50 tons or more per year of NO_x, unless exempted in Subsection C of this Section.

* * *

Averaging Capacity? the average actual heat input rate in million British thermal units per hour (MMBtu/hour) at which an affected point source operated during the ozone season of the two calendar years of 2000 and 2001 (e.g., the total heat input for the period divided by the actual hours of operation for the same period). Another period may be used to calculate the averaging capacity if approved by the department. For units with permit revisions that legally curtailed capacity or that were permanently shut down after 1997, the averaging capacity is the average actual heat input during the last two ozone seasons of operation before the curtailment or shutdown.

* * *

Combined Cycle? a combustion equipment configuration that generates electrical or mechanical power with a stationary gas or liquid-fired turbine and/or a stationary internal combustion engine and that recovers heat from the discharge within equipment to heat water or generate steam.

* * *

Low Ozone Season Capacity Factor Boiler or Process Heater/Furnace? a boiler or process heater/furnace in the Baton Rouge Nonattainment Area with maximum rated capacity greater than or equal to 40 MMBtu/hour and ozone

season heat input less than or equal to 0.46 x 10^{11} Btu, or in the Region of Influence with maximum rated capacity greater than or equal to 80 MMBtu/hour and ozone season heat input less than or equal to 0.92 x 10^{11} Btu.

* * *

Nitrogen Oxides (NO_x)? the sum of the nitric oxide and nitrogen dioxide in a stream measured in accordance with Subsection G of this Section.

* * *

C. …

1. boilers and process heater/furnaces with a maximum rated capacity of less than 40 MMBtu/hour in the Baton Rouge Nonattainment Area or less than 80 MMBtu/hour in the Region of Influence;

2. stationary gas turbines with a megawatt rating based on heat input of less than 5 MW in the Baton Rouge Nonattainment Area or less than 10 MW in the Region of Influence;

3. stationary internal combustion engines as follows:

a. rich-burn engines with a rating of less than 150 horsepower (Hp) in the Baton Rouge Nonattainment Area or less than 300 Hp in the Region of Influence; and

b. lean-burn engines with a rating of less than 150 Hp in the Baton Rouge Nonattainment Area or less than 1500 Hp in the Region of Influence;

4. - 7. …

8. any point source during start-up and shutdown as defined in LAC 33:III.111 or during a malfunction as defined in 40 CFR Section 60.2 (This exemption does not apply to units that are shut down intentionally on a routine basis, more than once per month.);

9. - 20. …

D. Emission Factors

1. The following tables list 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.

Table D-1A. Emission Factors for Sources in the Baton Rouge Nonattainment Area

Category	Maximum Rated Capacity	NOx Emission Factor [a]
Electric Power Generating System Boilers:		
Coal-fired	>/= 40 to <80 MMBtu/Hour	0.50 pound/MMBtu
	>/= 80 MMBtu/Hour	0.21 pound/MMBtu
Number 6 Fuel Oil-fired	>/= 40 to <80 MMBtu/Hour	0.30 pound/MMBtu
	>/= 80 MMBtu/Hour	0.18 pound/MMBtu
All Others (gaseous or liquid)	>/= 40 to <80 MMBtu/Hour	0.20 pound/MMBtu
	>/= 80 MMBtu/Hour	0.10 pound/MMBtu
Industrial Boilers	>/= 40 to <80 MMBtu/Hour	0.20 pound/MMBtu
	>/= 80 MMBtu/Hour	0.10 pound/MMBtu

Table D-1A. Emission Factors for Sources in the Baton Rouge Nonattainment Area

Category	Maximum Rated Capacity	NOx Emission Factor [a]
Process Heater/Furnaces:		
Ammonia Reformers	>/= 40 to <80 MMBtu/Hour	0.30 pound/MMBtu
	>/= 80 MMBtu/Hour	0.23 pound/MMBtu
All Others	>/= 40 to <80 MMBtu/Hour	0.18 pound/MMBtu
	>/= 80 MMBtu/Hour	0.08 pound/MMBtu
Stationary Gas Turbines:		
Peaking Service, Fuel Oil-fired	>/= 5 to <10 MW	0.37 pound/MMBtu
	>/= 10 MW	0.30 pound/MMBtu
Peaking Service, Gas-fired	>/= 5 to <10 MW	0.27 pound/MMBtu
	>/= 10 MW	0.20 pound/MMBtu
All Others	>/= 5 to <10 MW	0.24 pound/MMBtu[b]
	>/= 10 MW	0.16 pound/MMBtu[c]
Stationary Internal Combustion Engines:		
Lean-burn	>/= 150 to <320 Hp	10 g/Hp-hour
	>/= 320 Hp	4 g/Hp-hour
Rich-burn	>/= 150 to <300 Hp	2 g/Hp-hour
	>/= 300 Hp	2 g/Hp-hour

[a] based on the higher heating value of the fuel.
[b] equivalent to 65 ppmv (15 percent O_2, dry basis) with an F factor of 8710 dscf/MMBtu.
[c] equivalent to 43 ppmv (15 percent O_2, dry basis) with an F factor of 8710 dscf/MMBtu.

Table D-1B. Emission Factors for Sources in the Region of Influence

Category	Maximum Rated Capacity	NOx 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

Table D-1B. Emission Factors for Sources in the Region of Influence		
Category	**Maximum Rated Capacity**	**NOx Emission Factor [a]**
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	>/= 1500 Hp	4 g/Hp-hour
Rich-burn	>/= 300 Hp	2 g/Hp-hour

[a] all factors are based on the higher heating value of the fuel.
[b] equivalent to 43 ppmv (15 percent O_2, dry basis) with an F factor of 8710 dscf/MMBtu.

2. - 3. …

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 (pounds NO_x per MMBtu or grams NO_x per Hp-hour), 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 that a system, approved by the department, is installed, calibrated, maintained, and operated to demonstrate compliance.

D.5. - F.1. …

a. An owner or operator may obtain approval to install and operate NO_x control equipment that does not result in ammonia emissions above the minimum emission rate (MER) in LAC 33:III.Chapter 51 by submitting documentation in accordance with LAC 33:III.511. This documentation shall include an estimate of any carbon monoxide (CO), sulfur dioxide (SO_2), particulate matter (PM_{10}), and/or volatile organic compound (VOC) emission increases associated with the NO_x control technology. If approved, the administrative authority shall grant an authorization to construct and operate in accordance with LAC 33:III.501.C.3. Any appropriate permit application reflecting the emission reduction shall be submitted to the department and deemed administratively complete no later than 180 days after commencement of operation and in accordance with the procedures of LAC 33:III.Chapter 5.

1.b. - 4. …

5. Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Considerations. A significant net emissions increase in NO_x, CO, SO_2, PM_{10}, and/or VOC in accordance with LAC 33:III.504 or 509, that is a direct result of, and incidental to, the installation of NO_x control equipment or implementation of a NO_x control technique required to comply with the provisions of this Chapter shall be exempt from the requirements of LAC 33:III.509 and/or 504, as appropriate, provided the following conditions are met:

a. - b.ii. …

c. notwithstanding the requirements of Table 1 of LAC 33:III.504, a significant net increase of VOC emissions at an affected facility located in the Baton Rouge Nonattainment Area shall be offset at a ratio of at least 1:1. Offsets shall be surplus, permanent, quantifiable, and federally enforceable and calculated in accordance with LAC 33:III.Chapter 6; and

F.5.d. - G.1. …

2. Emissions testing is required for all point sources that are subject to the emission limitations of Subsection D of this Section or used in one of the alternative plans of Subsection E of this Section. Test results must demonstrate that actual NO_x emissions are in compliance with the appropriate limits of this Chapter. As applicable, CO, SO_2, PM_{10}, and VOC shall also be measured if modifications, done to comply with this Chapter, could cause an increase in emissions of any of these compounds. Performance testing of these point sources shall be performed in accordance with the schedule specified in Subsection J of this Section.

G.3. - H. …

1. The owner or operator of boilers that are subject to this Chapter shall demonstrate continuous compliance as follows:

a. - b.ii. …

iii. install, calibrate, maintain, and operate a NO_x CEMS to demonstrate continuous compliance with the NO_x emission factors of Subsection D or E of this Section, as applicable. The CEMS shall meet all of the requirements of 40 CFR Part 60.13 and performance specification 2 of 40 CFR 60, Appendix B, or the requirements of 40 CFR Part 75 for units regulated under the Acid Rain Program; and

iv. - vi. …

2. The owner or operator of process heater/furnaces that are subject to this Chapter shall demonstrate continuous compliance as follows:

a. - b.vi. …

3. The owner or operator of stationary gas turbines that are subject to this Chapter shall demonstrate continuous compliance as follows:

H.3.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), LR 30:747 (April 2004).

James H. Brent, Ph.D.
Assistant Secretary

0404#054

RULE

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Incorporation by Reference? 2003
(LAC 33:I.3931; V.3099; IX.2301, 4901, and 4903; and XV.1517)(OS053*)

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 Environmental Quality regulations, LAC 33:I.3931; V.3099; IX.2301, 4901, and 4903; and XV.1517 (Log #OS053*).

This Rule is identical to federal regulations found in 10 CFR 71, Appendix A, January 1, 2003 and 40 CFR Parts 117.3, 136, 266, Appendices I-IX and XI-XIII, 302.4, 401, and 405-471, July 1, 2003, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. 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).

This Rule incorporates by reference into LAC 33:I, V, IX, and XV the corresponding regulations in 10 CFR 71, Appendix A, January 1, 2003 and 40 CFR Parts 117.3, 136, 266, Appendices I-IX and XI-XIII, 302.4, 401, and 405-471, July 1, 2003. In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be adopted into the LAC. This rulemaking is necessary to maintain delegation, authorization, etc., granted to Louisiana by EPA. This incorporation by reference package is being promulgated to keep Louisiana's regulations current with their federal counterparts. The basis and rationale for this Rule are to mirror the federal regulations in order to maintain equivalency.

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. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 2. Notification

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. Incorporation by Reference of Federal Regulations. Except as provided in Subsection B of this Section, the following federal reportable quantity lists are incorporated by reference:

1. 40 CFR 117.3, July 1, 2003, Table 117.3? Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

2. 40 CFR 302.4, July 1, 2003:

A.2.a. - B.Note @. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004).

Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3099. Appendices–Appendix A, B, C, D, E, F, G, H, I, J, K, and L

Appendix A. Tier I and Tier II Feed Rate and Emissions Screening Limits For Metals

A. 40 CFR 266, Appendix I, July 1, 2003, is hereby incorporated by reference.

Appendix B. Tier I Feed Rate Screening Limits for Total Chlorine

A. 40 CFR 266, Appendix II, July 1, 2003, is hereby incorporated by reference.

Appendix C. Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride

A. 40 CFR 266, Appendix III, July 1, 2003, is hereby incorporated by reference.

Appendix D. Reference Air Concentrations

A. 40 CFR 266, Appendix IV, July 1, 2003, is hereby incorporated by reference, except that in regulations incorporated thereby, references to 40 CFR 261, Appendix VIII and 266, Appendix V shall mean LAC 33:V.3105.Table 1 and 3099.Appendix E, respectively.

Appendix E. Risk Specific Doses (10^{-5})

A. 40 CFR 266, Appendix V, July 1, 2003, is hereby incorporated by reference.

Appendix F. Stack Plume Rise [Estimated Plume Rise (in Meters) Based on Stack Exit Flow Rate and Gas Temperature]

A. 40 CFR 266, Appendix VI, July 1, 2003, is hereby incorporated by reference.

Appendix G. Health-Based Limits for Exclusion of Waste-Derived Residues

A. 40 CFR 266, Appendix VII, July 1, 2003, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII, 266.112(b)(1) and (b)(2)(i), and 268.43 shall mean LAC 33:V.3105.Table 1, 3025.B.1 and B.2.a, and Chapter 22.Table 2, respectively.

Appendix H. Organic Compounds for Which Residues Must be Analyzed

A. 40 CFR 266, Appendix VIII, July 1, 2003, is hereby incorporated by reference.

Appendix I. Methods Manual for Compliance with the BIF Regulations

A. 40 CFR 266, Appendix IX, July 1, 2003, is hereby incorporated by reference, except as follows.

A.1. - B. …

Appendix J. Lead-Bearing Materials That May Be Processed in Exempt Lead Smelters

A. 40 CFR 266, Appendix XI, July 1, 2003, is hereby incorporated by reference.

Appendix K. Nickel or Chromium-Bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces

A. 40 CFR 266, Appendix XII, July 1, 2003, is hereby incorporated by reference, except that the footnote should be deleted.

Appendix L. Mercury-Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units

A. 40 CFR 266, Appendix XIII, July 1, 2003, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII shall mean LAC 33:V.3105.Table 1.

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 22:827 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:300 (March 2001), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 30:751 (April 2004).

Part IX. Water Quality

Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Chapter 23. Definitions and General LPDES Program Requirements

§2301. General Conditions

A - E. …

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter shall refer to those regulations published in the July 1, 2003 CFR, unless otherwise noted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular 2074(B)(3) and (4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:199 (February 1997), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 30:752 (April 2004).

Chapter 49. Incorporation by Reference

§4901. 40 CFR Part 136

A. 40 CFR Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2003, in its entirety, and amendments to Part 136 in 68 FR 43271-43283, July 21, 2003, and 68 FR 54934, September 19, 2003, are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular 2074(B)(3) and (4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004).

§4903. 40 CFR Chapter I, Subchapter N

A. 40 CFR Chapter I, Subchapter N, Effluent Guidelines and Standards, Parts 401 and 405-471, July 1, 2003, are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004).

Part XV. Radiation Protection

Chapter 15. Transportation of Radioactive Material

§1517. Incorporation by Reference

A. The department incorporates by reference 10 CFR Part 71, Appendix A, January 1, 2003.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), amended LR 27:2233 (December 2001), LR 28:997 (May 2002), LR 29:701 (May 2003), LR 30:752 (April 2004).

James H. Brent, Ph.D.
Assistant Secretary

0404#025

RULE

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Nonattainment New Source Review Procedures
(LAC 33:III.504)(AQ235)

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.504 (Log #AQ235).

The purpose of the Rule change is to clarify the internal offset ratio that facilities must meet in serious and severe ozone nonattainment areas. The Baton Rouge Nonattainment Area has been reclassified from serious to severe as a result of failure to reach ozone attainment levels as mandated by the Clean Air Act. This action has been mandated by the US EPA. The basis and rationale for this Rule are to comply with the provisions of the Clean Air Act Amendments.

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. 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 III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

A. - A.5. …

6. For applications deemed administratively complete in accordance with LAC 33:III.519.A on or after December 20, 2001 and prior to June 23, 2003, the provisions of this Section governing serious ozone nonattainment areas shall apply to VOC and NO_x increases. For applications deemed administratively complete in accordance with LAC 33:III.519.A on or after June 23, 2003, the provisions of this Section governing severe ozone nonattainment areas shall apply to VOC and NO_x increases.

B - D.2. …

3. Notwithstanding Paragraph D.2 of this Section, in the case of any major stationary source located in an area classified as serious or severe, if the owner or operator of the source elects to offset the emissions increase by a reduction in emissions of VOC or NO_x, as specified in Paragraph F.1 of this Section, from other operations, units, or activities within the source at an internal offset ratio of at least 1.40 to 1 (if reviewed under requirements for serious areas) or 1.50 to 1 (if reviewed under requirements for severe areas), then the requirements for LAER shall not apply.

D.4. - Table 1."PM_{10}". …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004).

James H. Brent, Ph.D.
Assistant Secretary

0404#055

RULE

Department of Economic Development
Office of Business Development

Small and Emerging Business Development Program
(LAC 19:II.Chapters 1-13)

The Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950, has adopted the following amendments to the Rules of the Small and Emerging Business Development Program, in order to amend LAC 19:II.Chapters 1, 3, 5, 7, 9, 11, and 13. The Department of Economic Development has found a need to open the program to "legal residents," as well as "citizens;" to provide additional definitions; to allow the director's "designee" to act in the absence of the director; to achieve flexibility regarding the Louisiana Contractors Accreditation Institute (LCAI) bonding program when no state funding is available for such training; to permit the limitation of the number of bond guarantees outstanding at a given time; and to correctly reflect the name of the office adopting the Rules.

Title 19
CORPORATIONS AND BUSINESS
Part II. Small and Emerging Business Development Program

Chapter 1. General Provisions

§101. Statement of Policy

A. In accordance with the provisions of R.S. 51:941-945 and the provisions of the Administrative Procedure Act, R.S. 49:950-970 as amended, the Department of Economic Development's Small and Emerging Business Development Program administers these regulations which are intended to prescribe the procedures for qualifying and certifying small and emerging businesses; to provide for bonding and other financial assistance; to provide for technical and managerial assistance; to provide for a business mentor-protégé program; to recognize achievements for small and emerging businesses; and to facilitate access to state agency procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:49 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:753 (April 2004).

§103. Purpose

A. The purpose and intent of this Chapter is to provide the maximum opportunity for small and emerging businesses to become competitive in a non-preferential modern economy. This purpose shall be accomplished by providing a program of assistance and promotion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:753 (April 2004).

§105. Definitions

A. When used in these regulations, the following terms shall have meanings as set forth below.

Assistant Secretary? the *assistant secretary* of the Department of Economic Development.

Certification? the determination that a business qualifies for designation as a small and emerging business.

Designee? the person designated by the *director* to act in his absence.

Director? the director of the Small and Emerging Business Development Program designated by the *secretary* of the Department of Economic Development.

Firm? a business that has been certified as small and emerging.

Full-Time? working in the firm at least 35 hours per week.

Program? the Small and Emerging Business Development Program in the Department of Economic Development.

RFP? request for proposal.

Secretary? the *secretary* of the Department of Economic Development.

Small and Emerging Business (SEB)? a small business organized for profit and performing a commercially useful function which is at least 60 percent owned and controlled by one or more *small and emerging business persons* and which has its principal place of business in Louisiana. A nonprofit organization is not a *small and emerging business* for purposes of this Chapter.

Small and Emerging Business Person? a citizen or legal resident of the United States who has resided in Louisiana for at least one year and whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business, and whose diminished opportunities have precluded, or are likely to preclude, such individual from successfully competing in the open market.

Undersecretary? the *undersecretary* of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:753 (April 2004).

§107. Eligibility Requirements for Certification

A. An SEB is a firm owned and controlled by one or more small and emerging business person(s). Eligibility requirements fall into two categories, one applies to the individual owners and the other to the applicant's firm. In order to continue participation in the program, a firm and its individual owners must continue to meet all eligibility requirements.

B. Small and Emerging Business Person. For purposes of the program, a person who meets all of the criteria in this Section shall be defined as a small and emerging business person.

1. Citizenship. The person is a citizen or legal resident of the United States.

2. Louisiana Residency. The person has resided in Louisiana for at least one year.

3. Net Worth. The person's net worth may not exceed $200,000. The market value of the individual owner's personal residence, 401K, IRA, and other legal retirement funds will be excluded from the net worth calculation.

C. Small and Emerging Business

1. Ownership and Control. At least 60 percent of the company must be owned and controlled by one or more small and emerging business persons.

2. Principal Place of Business. The firm's principal place of business must be Louisiana.

3. Lawful Function. The company has been organized for profit to perform a lawful, commercially useful function.

4. Business Net Worth. The business' net worth at the time of application may not exceed $750,000.

5. Full Time. Managing owners who claim small and emerging business person status must be full-time employees of the applicant firm.

6. Job Creation. An applicant firm anticipates creating new full-time jobs.

D. Requirement for Certification. An application containing an affidavit signed, dated, and notarized attesting to all of the aforesaid eligibility requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998), LR 25:1084 (June 1999), LR 26:1572 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:754 (April 2004).

§109. Control and Management

A. Description. An applicant firm's management and daily business operations must be controlled by an owner(s) of the applicant firm who has/have been determined to be a small and emerging business person. In order for a small and emerging business person to be found to control the firm, that individual must have managerial or technical experience and competency directly related to the primary industry in which the applicant firm is seeking program certification.

1. The small and emerging business person(s) upon whom eligibility is based shall control the board of directors of the firm, either in actual numbers of voting directors or through weighted voting. In the case of a two-person board of directors where one individual on the board is a small and emerging business person and one is not, the formers vote must be weighted by share ownership, worth more than one vote to achieve a minimum of 60 percent control, in order for the firm to be eligible for the program. This does not preclude the appointment of nonvoting or honorary directors. All arrangements regarding the structure and voting rights of the board must comply with state law and with the firm's articles of incorporation and/or bylaws.

2. Individuals who are not a small and emerging business person may be involved in the management of an applicant's firm and may be stockholders, partners, officers, and/or directors of such firm. Such individual(s), their spouse(s) or immediate family members who reside in the individual's household may not, however:

a. exercise actual control or have the power to control the applicant or certified firm;

b. be an officer or director, stockholder, or partner of another firm in the same or similar line of business as the applicant or certified firm;

c. receive excessive compensation as directors, officers, or employees from either the applicant or certified firm. Individual compensation from the firm in any form, including dividends, consulting fees, or bonuses, which is paid to a non-disadvantaged owner, his/her spouse or immediate family member residing in the same household will be deemed excessive if it exceeds the compensation received by the small and emerging business person chief executive officer, president, partner, or owner, unless the compensation is for a clearly identifiable skill for which market rates must be paid for the firm to utilize the person's expertise;

d. be former employers of the small and emerging business owner(s) of the applicant or certified firm, unless the program determines that the contemplated relationship between the former employer and the small and emerging business person or applicant firm does not give the former actual control or the potential to control the applicant or certified firm and if such relationship is in the best interest of the certified firm.

B. Non-small and emerging business person control. non-small and emerging business person(s) or entities may not control, or have the power to control, the applicant firm. Examples of activities or arrangements which may disqualify an applicant firm from certification are:

1. a non-small and emerging business person such as an officer or member of the board of directors of the firm, or through stock ownership, has the power to control daily direction of the business affairs of the firm;

2. the non-small and emerging business person or entity provides critical financial or bonding support or licenses to the firm, which directly or indirectly allows the non-small and emerging business person to gain control or direction of the firm;

3. a non-small and emerging business person or entity controls the firm or the individual small and emerging business person(s) through loan arrangements;

4. other contractual relationships exist with non-small and emerging business person or entities, the terms of which would create control over the firm.

AUTHORITY NOTE: Promulgated in accordance with R.S.51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:51 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:543 (April 2003), LR 30:754 (April 2004).

§111. Responsibility for Applying

A. It is the responsibility of any business wishing to participate in the program to complete the required certification process. Failure to provide complete, true, or accurate data may result in rejection of the application.

B. Certification materials will be distributed by SEBD Program, or its designee, upon written or verbal request. Written requests for certification materials should be directed to the SEBD Program office in Baton Rouge.

C. Certification as a SEB also does not constitute compliance with any other laws or regulations and does not relieve any firm of its obligations under other laws or regulations. Certification as a small and emerging business also does not constitute any determination by SEBD Program that the firm is responsible or capable of performing any work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:543 (April 2003), LR 30:755 (April 2004).

§113. Certification Application Procedure

A. Applicant submits an application containing a signed, dated, and notarized affidavit to the SEBD office.

B. The SEBD Program staff reviews the application and if it is found to be incomplete or further information is needed, the SEBD Program staff will contact applicant. If the applicant does not respond within 15 days, the application will be denied.

C. The director, or designee, notifies the applicant in writing of the decision whether or not to grant certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:755 (April 2004).

§115. Duration of Certification

A. The maximum amount of time that a firm may be granted certification by the SEBD Program is seven years or when the firm graduates.

B. Retention of the firm in the program depends upon time, the firm's progress toward attainment of its business goals, willingness or ability to cooperate, and follow through on recommendations of the SEBD Program staff or its designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), LR 26:1572 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:755 (April 2004).

§117. Reports by Certified Small and Emerging Businesses

A. Report Form. On forms identified or prescribed by the SEBD Program, certified businesses shall report at times specified by the SEBD Program their financial position and attainment of the business' performance goals. Failure to do so may result in termination from the program.

B. Verification of Eligibility. The SEBD Program, or its designee, may take any reasonable means at any time to confirm a certified firm's eligibility, such as by letter, telephone, contact with other governmental agencies, persons, companies, suppliers, or by either announced or unannounced site inspection.

C. Notification of Changes. To continue participation, a certified firm shall provide the SEBD Program, or its designee, with a written statement of any changes in an address, telephone number, ownership, control, financial status, or major changes in the nature of the operation. Failure to do so may be grounds for termination of eligibility.

D. Evaluation. The SEBD Program or its designee, as necessary, shall evaluate the information to determine progress, areas for further improvement, resources needed by the firm, and eligibility for continued participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), LR 26:1572 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:755 (April 2004)

§119. Deception Relating to Certification of a Small and Emerging Business

A. Any person found guilty of the crime of deception relating to certification of an SEB as provided in R.S. 51:944 will be discharged from the program and will not be eligible to reapply under the business name involved in the deception or any business with which such individual(s) may be associated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:944.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:755 (April 2004).

Chapter 3. Developmental Assistance Program

§301. Developmental Assistance

A. Purpose. The SEBD Program will coordinate technical, managerial, and indirect financial assistance through internal and external resources to assist certified small and emerging businesses in becoming competitive in the market place.

B. Developmental Steps

1. The certified SEB owner will be required to participate in, and complete a SEBD Program approved entrepreneurial training program. The small and emerging business owner that demonstrates adequate entrepreneurial skills or compelling reasons for not participating may be granted a waiver by the director or designee.

2. Determination of Additional Assistance. In consultation with the business owner, the SEBD Program's staff or its designee will determine areas in which the business owner needs additional assistance.

3. Referral to Additional Resources. The SEBD Program or its designee will assist the firm obtain technical and/or managerial assistance from other resources, such as small business development centers, procurement centers, consultants, business networks, professional business associations, educational institutions, and other public agencies.

4. Ongoing Evaluation. In conjunction with the small and emerging business firm and appropriate external resources, the SEBD Program or its designee will periodically assess the SEB firm's progress toward attainment of its business goals. The SEBD Program, in conjunction with the SEB firm, will determine the effectiveness of assistance being administered. If assistance is ineffective, the SEBD Program will investigate and take appropriate action.

5. Graduation from the Program. Upon completion of the program's seven year term or attainment of the SEB's programmatic goals, the SEB firm will graduate from the program. Firms that do not make satisfactory progress and/or exceed the net worth prerequisites for certification will be terminated from the SEBD Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:53 (January 1997), LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:755 (April 2004).

Chapter 5. Mentor-Protégé Program

§501. General Policy

A. The policy of the state is to implement a mentor/protégé program that breaks down barriers and builds capacity of small and emerging businesses, through internal and external practices which include:

1. tone setting? intense and deliberate reinforcement by the governor's office of the state's provision for substantial inclusion of small and emerging businesses in all aspects of purchasing, procurement and contracting;

2. accountability? responsibility of each cabinet member and policy administrator to produce self-imposed and specific outcomes within a specified period of time;

3. partnering? teaming of small and emerging businesses with businesses who have the capability of providing managerial and technical skills, transfer of competence, competitive position and shared opportunity toward the creation of a mutually beneficial relationship with advantages which accrue to all parties;

4. capacity building? enhancing the capability of small and emerging businesses to compete for public and private sector contracting and purchasing opportunities;

5. flexibility? promoting relationships based on need, relative strengths, capability and agreement of the parties within the boundaries of the program objectives of inclusion, impartiality and mutual understanding;

6. education? sharing instruction on intent, purpose, scope and procedures of the Mentor/Protégé program with both government personnel at all levels of administration as well as the business community and the general citizenry;

7. monitoring? requiring the routine measurement and reporting of important indicators of (or related to) outcome oriented results which stems from the continuing quest for accountability of Louisiana state government;

8. reporting? informing the governor's office of self-imposed outcomes via written and quarterly reports as to the progress of intra-departmental efforts by having the secretary of the department and her/his subordinates assist in the accomplishment of the initiative keep records, and coordinate and link with representatives of the Department of Economic Development; and

9. continuous improvement? approach to improving the performance of the Mentor/Protégé operation which promotes frequent, regular and possible small incremental improvement steps on an ongoing basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:53 (January 1997), amended LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004).

§503. Incentives for Mentor Participation

A. Businesses participating as mentors in the Mentor/Protégé Program will be motivated for program participation via program features incorporated in the bid process as well as contracts and or purchase agreements negotiated with the firm. The following features may be instituted by the state of Louisiana to motivate mentor participation.

1. Preferential Contract Award. The state of Louisiana may institute a system for awarding points to mentor participants which will confer advantages in the bid or selection process for contracting. The evaluation points granted a mentor/protégé program participant will be proportionate to the amount of protégé participation in the project. Evaluation points will be weighted with the same standards as points awarded for quality for product or service; or

2. Performance Incentives. Contracts for goods or services may include a factor for evaluation of performance for the purpose of providing incentives for work performed or deliveries completed ahead of schedule. The incentive for contractors and suppliers who are mentor/protégé program participants shall be not less than 5 percent greater than incentives awarded to firms who are not program participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004).

§505. Incentives for Protégé Participation

A. Businesses participating as protégés will be eligible for the following program benefits.

1. Subcontracting Opportunities. Protégé firms may be eligible for non-competitive subcontracting opportunities with the state and private sector industries.

2. Technical and Developmental Assistance. Protégé firms will be provided technical and developmental assistance provided by Mentors which is expected to build the capacity of the protégé firm to compete successfully for public and private sector opportunities.

3. Networking. The Department of Economic Development will institute a system of networking protégé firms with potential mentors for the purposes of facilitating successful mentor/protégé partnerships. SEB firms participating in the program will be included in the Department of Economic Development's protégé source guide, which lists the firm and its capabilities as a sources of information for mentors in the program. Additionally, networking seminars for the purposes of introducing potential mentors and protégés will be held annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:757 (April 2004).

§507. Guidelines for Participation

A. The Mentor/Protégé Program will be open to participation by any business entity which meets the criteria for participation as outlined below.

1. Mentor firms:

a. must be capable of contracting with the state;

b. must demonstrate their capability to provide managerial or technical skills transfer or capacity building; and

c. must remain in the program for the period of the developmental assistance as defined in the Mentor/Protégé plan.

2. Protégé firms:

a. must be a certified small and emerging business with the state of Louisiana Department of Economic Development;

b. must be eligible for receipt of government and private contracts;

c. must graduate from the program within a period not to exceed 7 years or until the firm reaches the threshold of $750,000 net worth as defined by the SEB certification guidelines.

3. Mentor/Protégé Plan

a. A mentor/protégé plan signed by the respective firms shall be submitted to the Department of Economic Development, Program of Small and Emerging Business Development for approval. The plan shall contain a description of the developmental assistance that is mutually agreed upon and in the best developmental interest of the protégé firm.

b. The mentor/protégé plan shall also include information on the mentor's ability to provide developmental assistance, schedule for providing such assistance, and criteria for evaluating the protégé's developmental success. The plan shall include termination provisions complying with notice and due process rights of both parties and a statement agreeing to submit periodic report reviews and cooperate in any studies or surveys as may be required by the department in order to determine the extent of compliance with the terms of the agreement.

c. The submitted mentor/protégé agreement shall be reviewed by an economic development small business advisor. The small business advisor may recommend to the director of the Program of Small and Emerging Business Development acceptance of the submitted agreement if the agreement is in compliance with the program's mentor/protégé guidelines.

4. Protégé Selection. Selection of the protégé is the responsibility and at the discretion of the mentor. Protégés may be selected from the listing of SEB firms provided by the Department of Economic Development, Program of Small and Emerging businesses. A protégé selected from another source or reference must be referred to the Department of Economic Development for certification as an SEB firm. The protégé must meet the department's guidelines for SEB certification as a condition of the mentor/protégé plan acceptance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:757 (April 2004).

§509. Measurement of Program Success

A. The overall success of the mentor/protégé program will be measured by the extent to which it results in:

1. an increase in the protégé firm's technical and business capability, industrial competitiveness, client base expansion and improved financial stability;

2. an increase in the number and value of contracts, subcontracts and supplier agreements by small and emerging businesses; and

3. the overall enhancement and development of protégé firms as a competitive contractor, subcontractor, or supplier to local, state, federal agencies or commercial markets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 942

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:757 (April 2004).

§511. Internal Controls

A. The Program of Small and Emerging Business Development will manage the program and establish internal controls to achieve the stated program objectives. Controls will include:

1. reviewing and evaluating mentor/protégé agreements for goals and objective;

2. reviewing semi-annual progress reports submitted by mentors and protégés on protégé development to measure protégé progress against the approved agreement;

3. requesting and reviewing periodic reports and any studies or surveys as may be required by the program to

determine program effectiveness and impact on the growth, stability and competitive position of small and emerging businesses in the state of Louisiana; and

4. continuous improvement of the program via ongoing and systematic research and development of program features, guidelines and operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 942

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:757 (April 2004).

§513. Non-Performance

A. The Mentor/Protégé Agreement is considered a binding agreement between the parties and the state. Mentors who compete for contract award or purchasing activity and receive evaluation points as program participants are bound, in accordance with the terms of the state contract or purchase order, to fulfill the responsibilities outlined in the approved mentor/protégé agreement as a condition of successful contracting or purchase activity. Protégé who are selected for program participation are bound, in accordance with the terms of their agreement with the Department of Economic Development for continued participation in the program. Failure of the parties to meet the terms of the agreement is considered a violation of contract with liabilities as outlined below.

B. Failure of the mentor to meet the terms of the mentor/protégé agreement will be considered a default of state contract or purchasing agreement.

C. Failure of the protégé to meet the terms of the mentor/protégé agreement will result in exclusion from future participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:758 (April 2004).

§515. Conflict Resolution

A. The state will institute a system for independent arbitration for the resolution of conflicts between mentors and protégé as program participants and/or between program participants and the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1575 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:547 (April 2003), LR 30:758 (April 2004).

Chapter 9. Small Business Bonding Program

§901. Small Business Bonding Assistance

A. Program Activities? Louisiana Contractors Accreditation Institute (LCAI)

1. Eligibility. All SEB construction contractors who are certified by the Small and Emerging Business Development Program, Department of Economic Development, are eligible to attend the institute. However, other contracting businesses will be invited to attend the institute but they will not be able to receive bond guarantee assistance until they have been certified by the SEBD Program.

2. Standards and Procedures for Determining Course Content. The staff of Bonding Assistance Program (BAP) will once a year, or as budget permits, consult with the heads of the construction schools in Louisiana approved by the Board of Regents and Department of Education to ensure that current course content adequately prepares the students to run their construction firms in a businesslike manner.

3. Attendance. Attendance is open to only certified or potentially certified small and emerging business construction contractors. However, contractors must register for the institute he or she wishes to attend. Each contractor who successfully completes the LCAI will be issued a certificate of accreditation.

4. Accreditation without Institute Attendance. An SEB firm may request to be accredited without attendance. The staff of the BAP will conduct a review of the firm. If the contractor can present evidence he conducts business within standards set by best practices, an accreditation may be issued to the firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:53 (January 1997), amended LR 24:430 (March 1998), LR 26:1575 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:547 (April 2003), LR 30:758 (April 2004).

§903. Direct Bonding Assistance

A. Direct Bonding Assistance. All certified small and emerging construction businesses that have been accredited by the LCAI and all other certified SEBs (non-construction) may be eligible for surety bond guarantee assistance not to exceed the lesser of 25 percent of contract or $200,000 on any single project. LCAI accreditation is required when funding is available to support accreditation. LCAI accreditation will ONLY be waived for contracts that occur during the specific time periods when funding is not available to support accreditation. All obligations, whether contractual or financial, will require the approval of the undersecretary.

B. Application Process

1. A small business bonding program applicant requesting a bond guaranty is first required to contact a surety company interested in insuring such a bond contingent on SEBD approval. The aforesaid surety will contact SEBD to discern eligibility requirements and submit a formal application on behalf of the business concern.

2. Application for surety bond guarantee assistance including contractor or business underwriting data as prescribed by surety companies shall be submitted by the contractor or it's agent to the surety company.

3. Manager of BAP or designee will:

a. determine and document that business is eligible to participate in program;

b. secure proof that project has been awarded to contractor or business, in the case of performance and payment bonds;

c. determine worthiness of the project based on advice and input from surety company;

d. make recommendations to the BRAS Director as required.

C. Surety Companies

1. Criteria for Eligibility and Continuation in the Program. A surety company must have a certificate of authority from, and its rates approved by, the Department of Insurance, and appear in the most current edition of the *U.S. Treasury Circular 570*.

a. BAP, at its sole discretion, may refuse to recommend the issuance of further guarantees/letters of credit (LC) to a participating surety where the administration finds any of the following:

i. fraud or misrepresentation in any of the sureties business dealings, BAP-related or not;

ii. imprudent underwriting standards;

iii. excessive losses (as compared to other participating sureties);

iv. failure of a surety to consent to BAP audit;

v. evidence of discriminatory practices; and

vi. consideration of other relevant factors.

b. BAP, at its sole discretion, may refuse to recommend the issuance of further guarantees/LC to a participating surety where the Department of Economic Development finds that the surety has failed to adhere to prudent underwriting standards or other practices relative to those of other sureties participating in the BAP. Any surety that has been denied participation in the program may file an appeal, in writing, delivered by certified mail to the Secretary of the Department of Economic Development, or a designee, who will review the adverse action and will render the final decision for the department. Appeals must be received no later than 30 days from the issuance of the secretary's, or designee's, decision.

2. Subsuretyship. A lead or primary surety must be designated by those sureties who desire to bond a contract together. BAP will recommend a guarantee only to one surety. This does not mean that surety agreements cannot be entered. In a default situation, BAP will recommend to indemnify only the lead or primary surety, which will have an indemnification agreement with its re-insurers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:430 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:547 (April 2003), LR 30:758 (April 2004).

§907. Management Construction/Risk Management Company

A. Surety may require contractor to engage a management construction/risk management company to do, at a minimum, an independent take off and review of all low bid projects and advise BAP of their findings, this determination shall be made based on the surety's standard underwriting procedures. Surety may also require contractor to engage a management construction/risk management company to provide the following services:

1. review of the initial bond request for compatibility of the contractor with the scope of work as outlined in the solicitation;

2. job cost breakdown and bid preparation assistance;

3. monitor all projects once awarded. This will include a full (critical path) reporting throughout the life of the contract;

4. funds receipt and disbursement through a job-specific account on each project. This will include compliance with all lien waivers, releases and vendor payment verification;

5. make itself immediately available for project completion on any defaults at no additional fee to the project cost.

B. Management construction/risk management company engaged by contractor shall be pre-approved by BAP and surety. BAP shall not receive any portion of any fees paid to management construction/risk management company by contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:431 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:548 (April 2003), LR 30:759 (April 2004).

§909. Underwriting a BAP Guaranteed Bond

A. In underwriting a BAP guaranteed bond, the surety is required to adhere to the surety industry's general principles and practices used in evaluating the credit and capacity; and is also required to adhere to those rules, principles, and practices as may be published from time to time by the BAP.

B. Once an application for a bond guarantee/LC is received from a contractor, a review will be conducted in order to determine whether the small and emerging business is eligible for BAP's surety bond guarantee assistance. This review will focus on the presence of a requirement for surety bonds and other statutory requirements.

1. Bonds

a. There must be a specific contract amount in dollars or obligee estimate of the contract amount, in writing, on other than firm fixed price contracts.

b. There must be nothing in the contract or the proposed bond that would prevent the surety, at its election, from performing the contract rather than paying the penalty.

c. BAP, having guaranteed the bid bond, may refuse to recommend guarantee of the required payment and performance bonds when the actual contract price exceeds the original bid and the next higher bid amount. In such an instance, the surety would either issue the payment and performance bond without BAP's guarantee, or suffer default in fulfilling the bid bond, which should result in claims against the surety and surety's claim against BAP.

2. Types of Bond Guarantees. BAP guarantees will be limited to certain bid, performance, and payment bonds issued in connection with a contract. Bid, performance, and payment bonds listed in the contract bonds section, *Rate Manual of Fidelity, Forgery and Surety Bonds*, published by the Surety Association of America, will be eligible for a BAP guarantee. In addition, the BAP guarantee may be expressly extended, in writing, to an ancillary bond incidental to the contract and essential to its performance.

3. Ineligible Bond Situations and Exceptions

a. If the contracted work is already underway, no guarantee will be issued unless the director or a designee consents, in writing, to an exception.

b. While it should not be a common occurrence, and is in fact to be discouraged, applications for surety bonds may occasionally be submitted for consideration after a job is in process. In such cases, the surety must submit, as part of the application, the following additional information:

i. evidence from the contractor that the surety bond requirement was contained in the original job contract;

ii. adequate documentation as to why a surety bond was not previously secured and is now being required;

iii. certification by contractor: list of all suppliers indicating that they are paid up to date, attaching a waiver of lien from each; that all labor costs are current; that all subcontractors are paid to their current position of work and a waiver of lien from each;

iv. certification by obligee that the job has been satisfactorily completed to present status; and

v. certification from the architect or engineer that the job is in compliance with plans and specifications; and is satisfactory to the present.

c. There are prepared forms published by the American Institute of Architects (AIA), which may be used for the purposes listed above.

C. The surety must satisfy to BAP that there is reasonable expectation that the small and emerging business will perform the covenants and conditions of the contract with respect to which a bond is required. BAP's evaluation will consider the small and emerging business' experience, reputation, and its present and projected financial condition. Finally, BAP must be satisfied as to the reasonableness of cost and the feasibility of successful completion of the contract. The BAP's determination will take into account the standards and principles of the surety industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:431 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:548 (April 2003), LR 30:759 (April 2004).

§911. Guarantee

A. Amount of Guarantee. Providing collateral in the form of an irrevocable letter of credit to the surety may be posted on an individual project basis, for one or more projects at any one time, at the discretion of the Department of Economic Development.

B. Surety Bond Guarantee Agreement

1. Terms and Conditions

a. The *guarantee agreement* is made exclusively for the benefit of BAP and the surety; it does not confer any rights or benefits on any other party including any right of action against BAP by any person claiming under the bond. When problems occur on a contract substantive enough to involve the surety, the surety is authorized to take actions it deems necessary. Regardless of the extent or outcome of surety's involvement, the surety's services, including legal fees and other expenses, will be chargeable to the contractor unless otherwise settled.

b. Any agreement by BAP to guarantee a surety bond issued by a surety company shall contain the following terms and conditions:

i. the surety represents that the bond or bonds being issued are appropriate to the contract requiring them;

ii. the surety represents that the terms and conditions of the bond or bonds executed are in accordance with those generally used by the surety for the type of bond or bonds involved;

iii. the surety affirms that without the BAP guarantee to surety, it will not issue the bond or bonds to the principal;

iv. the surety shall take all steps necessary to mitigate any loss resulting from principal's default;

v. the surety shall inform BAP of any suit or claim filed against it on any guaranteed bond within 30 days of surety's receipt of notice thereof. Unless BAP decides otherwise, and so notifies surety within 30 days of BAP's receipt of surety's notice, surety shall take charge of the suit for claim and compromise, settle or defend such suit or claim until so notified. BAP shall be bound by the surety's actions in such matters;

vi. the surety shall not join BAP as a third party in any lawsuit to which surety is a party unless BAP has denied liability in writing or BAP has consented to such joinder.

c. When contractor successfully completes bonded job a status inquiry report is signed by appropriate parties and is forwarded to surety's collateral department. Surety shall release standby letter of credit within 90 days of recordation of acceptance date shown on status inquiry report.

d. Variances. The terms and conditions of BAP's guarantee commitment or actual bond guarantee may vary from surety to surety and contract to contract depending on BAP's experiences with a particular surety and other relevant factors. In determining whether BAP's experience with a surety warrants terms and conditions which may be at variance with terms and conditions applicable to another surety, BAP will consider, among other things, the adequacy of the surety's underwriting; the adequacy of the surety's substantiation and documentation of its daims practice; the surety's loss ratio and its efforts to minimize loss on BAP guaranteed bonds; and other factors. Any surety which deems itself adversely affected by the director's exercise of the foregoing authority may file an appeal with the Secretary of the Department of Economic Development. The secretary will render the final decision.

2. Reinsurance Agreement. In all guarantee situations, BAP agrees to reimburse the participating surety up to the agreed-upon percentage of any and all losses incurred by virtue of default on a particular contract. The participating surety agrees to handle all claims, with recoveries being shared on a pro rata basis with BAP. This includes reinsurance agreements between the surety and any other licensed surety or reinsurance company. In other words, no indemnity agreement can be made to inure solely to the benefit of the surety to recover its exposure on any bond guarantee by BAP without BAP participating in its pro rata share.

3. Default

a. Notice of Default. Surety shall notify BAP if it becomes aware of any circumstances which may cause the contractor to fail to timely complete the project in

accordance with the provisions of the contract. Where BAP receives information from other sources indicating a contractor is in potential violation of his contract, the information is to be relayed to the surety for its information and appropriate action.

b. Default Claims, Indemnity Pursuit, and Settlement

i. The sole authority and responsibility in BAP for handling claims arising from a contractor's default on a surety bond guaranteed by the BAP shall remain with the director and undersecretary relative to BAP's guarantee. The director and undersecretary will process and negotiate all claim matters with surety company representatives.

ii. In those situations where BAP's share is $500 or less, the surety shall notify the contractor, by letter, of its outstanding debt with no further active pursuit undertaken by the surety for which BAP would be requested to reimburse.

iii. In those situations where BAP's share is over $500 through $2,500, the surety shall promptly develop financial background information on the debtor contractor. These findings will determine whether it is economically justified to further pursue indemnity recovery or to close the file.

iv. In those situations where BAP's share is over $2,500, the surety shall pursue recovery through its normal method, assessing and comparing the estimated cost of recovery efforts with the probable monetary gain from the effort prior to exercising its rights under LC.

v. The surety shall advise BAP of attempts made to contact indemnitor or to attach other assets, and the outcome of these attempts. The surety shall insure that BAP is credited with its respective apportionment of all recovery within 90 days of the recovery.

vi. At the culmination of subrogation and indemnity recovery efforts, the surety shall notify the obligor of the total amount outstanding. A copy of the notice sent to the contractor shall be promptly forwarded to the BAP. After recovery efforts have been exhausted, the surety and BAP will make final reconciliation on the defaulted case, and close the file on that particular contractor's project. Prior to closing the file, surety shall conduct a recapitulation of the account to assure that BAP has been correctly credited with all funds recovered from any and all sources.

vii. Under the terms and conditions of the surety bond guarantee agreement, the authority to act upon proposed settlement offers in connection with defaulted surety bonds lies with the surety, not with the BAP. A settlement occurs when a defaulted contractor and its surety agree upon a total amount and/or conditions which will satisfy the contractor's indebtedness to the surety, and which will result in closing the loss file. The surety must pay BAP its pro rata share of such settlement. BAP, immediately upon receipt of same, closes the file.

4. Reinstatement. A contractor's contractual relationship is with the surety company. Therefore, all matters pertaining to reinstatement must be arranged with and through the surety. BAP's contractual relationship is with the surety company only. Because of these relationships, BAP will neither negotiate nor discuss with a contractor amounts owed the surety by the contractor, or settlement thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:432 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:549 (April 2003), LR 30:760 (April 2004).

§913. Audits

A. At all reasonable times, BAP or designee may audit the office of either a participating agency, its attorneys, or the contractor or subcontractor completing the contract, all documents, files, books, records and other material relevant to the surety bond guarantee commitments. Failure of a surety to consent to such an audit will be grounds for BAP to refuse to issue further surety guarantees until such time as the surety consents to such audit. However, when BAP has so refused to issue further guarantees the surety may appeal such action to the Secretary of the Department of Economic Development. All appeals must be in writing and delivered by certified mail within 30 days of receiving the director's, or designee's written issuance of notice that no further guarantees will be issued. Otherwise the director's, or designee's, decision becomes final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:433 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:550 (April 2003), LR 30:761 (April 2004).

§915. Ancillary Authority

A. The director, with the approval of the undersecretary and assistant secretary, will have the authority to commit funds and enter into agreements which are consistent with and further the goals of this program. This authority would include, but not be limited to, designating a pool of funds upon which only a particular surety has recourse to, in the event of a contractor default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:433 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:550 (April 2003), LR 30:761 (April 2004).

Chapter 11. Promotion of Small and Emerging Businesses

§1101. Promotion

A. Directory

1. Compilation. The SEBD Program shall compile a directory of all certified SEBs and make it available to the businesses and governmental agencies.

2. Frequency of Publication. The directory shall be updated at least annually, based upon information provided by certified businesses. The SEBD Program may issue updated directories more frequently.

3. Volume and Distribution. At least one copy of the directory will be made available to each state agency and educational institution, and copies will be provided to the state library. Additional copies may be made available to the public and governmental agencies as SEBD Program's resources permit.

4. Available Information. Public information concerning a small and emerging business may be obtained by contacting the Small and Emerging Business Development Program staff during normal working hours.

B. Other Promotional Means. The SEBD Program will utilize other feasible means of promoting small and emerging businesses, such as, but not limited to, the internet, world wide web, electronic bulletin boards, trade shows, or private sector contacts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:54 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:550 (April 2003), LR 30:761 (April 2004).

Chapter 13. Complaints and Investigations

§1301. Complaints and Investigation of Ineligibility

A. Right to File Complaint. Any individual, firm, or governmental agency which believes that a certified business does not qualify for certification may file a written, signed complaint with the SEBD Program. The complaint must contain sufficient information for SEBD Program staff to conduct an investigation, including specific identification of the affected business, basis for the charge of ineligibility, and identification, mailing address, and telephone number of the complainant.

B. Right to Due Process. No small and emerging business shall be decertified based upon a complaint, without first having had an opportunity to respond to the allegations; however, failure of the small and emerging business to respond to the SEBD Program's notification within 30 calendar days of mailing from the Program may result in revocation of certification.

C. Investigative Procedure

1. Notification of Allegation. The SEBD Program shall notify the certified business which is subject of the complaint by certified mail, return receipt requested, of the allegation within 15 calendar days of the complaint's receipt.

2. Investigation Conducted. Within available resources, the SEBD Program shall investigate each complaint as promptly as possible. In no event shall the investigation extend beyond 60 calendar days from the date that the complaint was received.

3. Cooperation. The small and emerging business shall cooperate fully with the investigation and make its staff and records available to the SEBD Program, if requested. Insufficient cooperation may be grounds for concluding that the firm has not borne the burden of proving to the satisfaction of the SEBD Program that it is eligible for certification, resulting in revocation of certification.

4. Upon completion of the investigation, the SEBD Program's staff shall make a determination and issue a written decision which either rejects the complaint or revokes the certification within 10 working days. A copy of the written decision shall be sent to the firm that was subject of the complaint, the complainant, and the director of the SEBD Program of State Purchasing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:944.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:54 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:551 (April 2003), LR 30:762 (April 2004).

§1303. Grounds and Procedure for Reconsideration of Denial

A. Right to Petition. A decision by the SEBD Program to deny issuing certification, deny renewal of certification, or to revoke certification will be reconsidered after an applicant business has submitted a written petition for reconsideration to the staff of the SEBD Program.

B. Grounds. Grounds for petitioning the SEBD Program to reconsider a denial or revocation of certification are that the Small and Emerging Business Development Program:

1. did not have all relevant information;

2. misapplied its rules;

3. otherwise made an error in reaching it original decision.

C. Right to Petition for Reconsideration. A petitioning business may appeal SEBD Program's decision to deny issuance of certification, to deny recertification, or to revoke certification. Only a firm which is subject of the denial or revocation has a right to petition for reconsideration.

1. Petition Submitted. The appellant business submits a written petition for reconsideration to the SEBD Program's staff. If the petition has not been received by the SEBD Program within 30 days of the date of the letter announcing the denial or revocation, the SEBD Program's decision becomes administratively final.

2. The petition shall specify grounds upon which a reconsideration is justified and the type of remedy requested. The petition for reconsideration must also clearly identify a contact person, mailing address, telephone number. The petitioning firm may provide any additional information which would be pertinent to the issue.

3. Acknowledgment. Upon receiving a petition for reconsideration, SEBD Program shall acknowledge its receipt by sending certified mail, return receipt requested, to the petitioner within five working days.

4. Reconsideration. The SEBD Program shall consider the petition and review all pertinent information, including additional information provided by the appellant business. The SEBD Program may conduct further investigation as necessary.

5. Notification of Decision. No later than 60 calendar days from receipt of the petition for reconsideration, the SEBD Program shall notify the petitioner by certified mail, return receipt requested, of its decision either to affirm the denial or revocation, with specific reason(s) of the grounds for the decision.

D. Final Decision. A decision to deny, revoke, or suspend certification following consideration of a petition for reconsideration is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:944.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:55 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:551 (April 2003), LR 30:762 (April 2004).

Don J. Hutchinson
Secretary

0404#072

RULE

Board of Elementary and Secondary Education

Bulletin 111? Louisiana School,
District, and State Accountability
(LAC 28:LXXXIII.303, 311, 1701, 2701, 2702, 2703, 2713, 2715, 2717, 2719, 2721, 3905, 4001, 4003, and 4005)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 111? The Louisiana School, District, and State Accountability System* (LAC Part Number LXXXIII). 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 existing policy as follows:

?? Moves directions that apply to several calculations to the beginning of a section.

?? Deletes an unclear example of a calculation.

?? Sets a timeline for schools in School Improvement to submit School Improvement Plans.

?? Expands the details of the Supplemental Educational Services process.

?? Specifies how LEAP Alternate Assessment students are included in NRT calculations.

?? Creates required definitions for English language proficiency.

Title 28
EDUCATION
Part LXXXIII. Bulletin 111? Louisiana School, District, and State Accountability
Chapter 3. School Performance Score Component
§303. Calculating the SPS Component

All intermediate results and the final result shall be rounded to the nearest tenth.

A. ...

B. Formula for Calculating an SPS [K-6]

The SPS for a K-6 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
			SPS = 67.1

C. Formula for Calculating an SPS [K-8]

The SPS for a K-8 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,
[(71.2 * 60%) + (76.1 * 30%) + (87.7 * 5%) + (90.4 * 5%)] = 74.4

Indicator	Index Value	Weight	Indicator Score
CRT	71.2	60%	42.7
NRT	76.1	30%	22.8
Attendance	87.7	5%	4.4
Dropout	90.4	5%	4.5
			SPS = 74.4

D. Formula for Calculating an SPS for 9-12 and Combination Schools

Combination schools are schools that contain a 10th and/or 11th grade and that also contain a 4th and/or 8th grade.
The SPS for a 9-12 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 * CRT Adjusted Achievement Index) + (.30 * NRT Adjusted Achievement Index) + (.05 * Dropout Index)+ (.05 * Attendance Index)

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	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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:1632 (August 2003), amended LR 30:763 (April 2004).

§311. Calculating the CRT Index [9-12]

A. 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 tested and summing those products.

B. Divide the sum by the total number of students eligible to be tested times the number of content area tests to get the raw achievement index for the grade.

C. 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 formulas below). This operation means that the grade 10 CRT index shall be multiplied by the grade 9 and grade 10 non-dropout rates plus 0.07, and the grade 11 CRT index shall be multiplied by the grade 9, grade 10 and grade 11 non-dropout rates plus 0.07. This operation shall yield the adjusted achievement index.

D.1. The formula for calculating the CRT adjusted achievement index for a high school is:

CRT Adjusted Achievement Index (Gr 10) = Raw Achievement Index * (1-DO Gr 9 + .07) * (1-DO Gr 10 + .07)

CRT Adjusted Achievement Index (Gr 11) = Raw Achievement Index * (1-DO Gr 9 + .07) * (1-DO Gr 10 + .07) * (1-DO Gr 11 + .07)

2. Scores for students repeating the GEE 21 ELA, math, science, and/or social studies tests, shall not be included in SPS calculations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:1633 (August 2003), amended LR 30:763 (April 2004).

Chapter 17. Requirements for Schools in School Improvement (SI)
§1701. School Improvement 1 Requirements

A. A school shall enter SI 1 if:

1. it is not academically unacceptable; and

2. it has met the requirements of the subgroup component;

3. but;

a. it has an SPS below 79.9 and did not meet its growth target; or

b. it has an SPS of 80.0-99.9 and did not grow at least 0.1 points; or

c. beginning in 2004, it has an SPS of 100.0-119.9 and has an SPS decline of more than 2.5 points.

B. A school shall remain in SI 1 if:

1. it is not academically unacceptable;

2. it has met the requirements of the subgroup component;

3. it has not made its growth target; and

4. its new growth target is less than eight points.

NOTE: If the school meets the conditions of A, B, and C, but has a growth target > 8 points, it moves to SI 2.

C. School Improvement 1 Requirements

1. A Revised or New School Improvement Plan. All Louisiana schools were required to have a school improvement plan in place by May of 1998. Within 90 days of identification, those schools placed in School Improvement 1 (SI 1) shall be required to review and either revise or completely rewrite their plan, with the assistance of a district assistance team, according to the guidelines established by the Louisiana Department of Education, and submit it to the Division of School Standards, Accountability, and Assistance.

2. Assurance Pages. Each school in school improvement 1 shall be required to provide assurances that it worked with a District Assistance Team (DAT) to develop its school improvement plan and that the plan has the essential components required in the Louisiana School Improvement Plan Template. Signatures of the DAT team members shall also be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:1640 (August 2003), amended LR 30:763 (2004).

Chapter 27. Supplemental Educational Services

§2701. Definition of Supplemental Educational Services

A. Supplemental educational services are defined by the United States Department of Education as "tutoring or extra help provided to students in reading, language arts/English, and math. This extra help can be provided before or after school, on weekends, or in the summer." The No Child Left Behind Act states that these services must be of high quality, research-based, and specifically designed to increase the academic achievement of eligible children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:1644 (August 2003), LR 30:764 (April 2004).

§2702. Supplemental Educational Service Models

A. Louisiana's recommended model for the provision of effective supplemental educational services has three components:

1. Diagnostic assessment, or an appropriate process, to identify student weaknesses and achievement gaps that will be used to design instruction as well as to measure gains in student achievement for the purposes of provider accountability;

2. Targeted remediation/instruction aimed at addressing the individual skill gaps revealed during the assessment and based upon an individual learning plan; and

3. Post assessment to see if student gains occurred and a plan for either re-teaching skills or identifying new skill sets for instruction.

B. Student instruction will be in the areas of reading, English/Language arts, and/or mathematics in order to help students achieve academic proficiency and should be based on Louisiana's academic content standards and the local district's instructional plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:1644 (August 2003), LR 30:764 (April 2004).

§2703. Supplemental Educational Service Providers

A. Providers that meet the criteria specified by the Louisiana State Department of Education shall be included on the state-approved supplemental educational services provider list. The State Department of Education will post the list, beginning January 1, 2003. The provider list will be updated on a periodic basis, at least annually, as new providers are identified and meet the qualifications.

B. To be included on the approved list of supplemental educational service providers, applicants shall have met the following criteria:

1. be able to define a process for assessment that results in an individual instructional plan tied to content standards;

2. have a demonstrated level of effectiveness in increasing student academic achievement;

3. be capable of providing supplemental educational services that are of high-quality, research-based, and consistent with the instructional program of the local educational agency and the state's academic content standards;

4. provide instruction that is secular, neutral, and non-ideological;

5. be financially sound, use qualified staff, and possess the organizational capacity necessary to deliver the contracted services; and

6. meet all applicable federal, state, and local health, safety, and civil rights laws;

7. have a program accessible to students attending Title I schools in school improvement.

C. Two levels of service providers have been approved in Louisiana.

1. Full approval is for those supplemental education service providers who have demonstrated a high level of effectiveness and the ability to provide services immediately.

2. New and emerging program approval is for those supplemental education service providers who met the minimum requirements in each component of the application but lack evidence of successful practice and outcomes. Providers who are approved as a new and emerging program:

a. can only request to serve a total of up to 200 children during the first year;

b. would be categorized as a new and emerging provider in district correspondence to parents; and

c. would be required to participate in specially designed technical assistance modules throughout the year.

D. Both categories of supplemental education service providers must have demonstrated that they have met the minimum requirements in each component of the application as judged by a Reviewers' Panel.

E. All Louisiana applicants will have provisional approval for one year, must be able to demonstrate the capacity for meeting the minimum requirements, and can be removed for cause.

F. Examples of reasons why a provider could be removed from the list within the first year are:

1. the delivery of an SES model that was not as related in the approved application, or

2. the absence of criminal background checks of all employees coming into contact with students, which is a State law.

G. Providers may be nonprofit entities, for-profit entities, and local education agencies, including public and private schools, after-school centers, cooperative educational service agencies, institutions of higher education, and faith-based organizations.

H. Entities that cannot serve as providers include public schools identified for school improvement, restructuring or corrective action; and Local Education Agencies identified for school improvement (although schools within such an LEA that are making adequate yearly progress can be providers).

I. All SES provider applicants must have a "service delivery system" in place at the time of application. In other words, applicants must have a physical location or service infrastructure through which SES services are provided to eligible students.

J. In an effort to make services the most accessible to eligible Title I students, local education agencies are strongly encouraged by the Board of Elementary and Secondary Education to allow SES providers the use of school facilities at no cost to the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:1644 (August 2003), amended LR 30:764 (April 2004).

§2713. SES Provider Responsibilities

A. Entities that agree to become supplemental services providers must:

1. set specific achievement goals for the student, which must be developed in consultation with the student's parents;

2. provide a description of how the student's progress will be measured and how the student's parents and teachers will be regularly informed of that progress;

3. establish a timetable for improving the student's achievement;

4. agree to terminate services if student progress goals are not met;

5. agree not to disclose to the public the identity of any student eligible for or receiving supplemental educational services without the written permission of the student's parents; and

6. agree that services will be provided consistent with applicable civil rights laws.

B. Providers must also submit to the State Department of Education and the schools of all students served, a final written report that summarizes the progress of all students provided with supplemental services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:765 (April 2004).

§2715. State Department of Education Approval and Monitoring of SES Providers

A. Providers who wish to participate on the Louisiana Department of Education's state-approved SES Provider List must:

1. review and complete the Request for Application process;

2. review this Policies and Procedures document, which provides information about the state process;

3. review the Monitoring Section, which contains the criteria that the department will use to evaluate providers. It also contains information regarding complaint management and the evaluation of providers reported to be under performing or deficient in any way.

B. At least annually, a Reviewer's Panel will review applications received, score the applications and – for applications passing the scoring requirements – make recommendations of SES providers to the State Board of Elementary and Secondary Education.

C. The department reserves the right to approve all or specific subject areas and grades submitted by the provider.

D. The department will notify all applicants as to whether or not they have been approved to participate on the statewide SES Provider List.

E. All required documentation must be completed in order for provider to be added to the list.

F. Upon completion, the department will list the provider in its database of approved providers.

G. If selected for service by parents of eligible students, approved providers may be contacted by schools/districts to provide the approved services at the pricing terms approved at the state level, to the degree that they are within the per-pupil funding cap.

H. Providers wishing to alter the pricing terms to exceed the per-pupil funding cap must request approval from the appropriate State Department of Education staff person with the appropriate justification. The State Department of Education staff will render a decision regarding each request within 15 days.

I. Before providing services through this program, the provider must sign agreements with each student's LEA. Copies of this agreement must be available for inspection when providers are monitored by the department staff.

J. At the conclusion of the evaluation year as determined by the Department of Education, the provider is expected to submit to the Department and all schools of students served, a final written report that summarizes the progress of all students provided with supplemental services. The department will communicate the reporting format to each provider at least annually. This information will be used to help determine if a provider will remain on the state-approved list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:765 (April 2004).

§2717. Appealing State Department of Education SES Decisions

A. If a provider disagrees and wishes to appeal a decision, a letter documenting the provider's concerns must be sent to the department.

B. The appeal letter will be reviewed and a final determination will be issued within 15 days.

C. There will be two types of appeals that can be made:

1. Clarifications. If clarification of an application item is needed, department staff will provide a written response regarding the item to the applicant.

2. Scoring Disputes. In cases where scoring is in dispute, the disputed section will be reviewed and a final determination will be issued by the superintendent regarding the results of the section in question.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:766 (April 2004).

§2719. Remaining an SES Provider

A. The State Department of Education (SDE) is required to monitor the quality and effectiveness of the services offered by approved providers.

B. The SDE is required to withdraw approval from providers that fail, for two consecutive years, to contribute to increasing the academic proficiency of students to whom they provide services, and to remove providers that fail at any time to meet any of the other eligibility requirements or assurances.

C. A violation of any of the provider responsibilities may constitute grounds for immediate removal from the state-approved list.

D. During the first year of approval, a provider will be considered to have "probationary" status and may be removed for cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:766 (April 2004).

§2721. Review of Provider Performance

A. The State Department of Education shall conduct site visits of approved providers at scheduled intervals to determine if providers are in compliance with providing services that increase student achievement, are provided professionally, and in a safe and legally compliant atmosphere.

B. Parent/Guardian and student feedback will be solicited and reviewed to assess whether providers are accomplishing the goals and fulfilling the responsibilities in the manner described in the providers' applications and agreement forms signed with the LEAs and parents. The department will seek to confirm that providers are:

1. communicating with parents/guardians regarding their children's progress;

2. utilizing qualified staff;

3. holding scheduled classes/appointments;

4. following applicable safety, health, and civil rights standards;

5. demonstrating improvement in the students' achievement.

C. The department will work with local schools/districts to confirm that providers are:

1. fulfilling requests for services to eligible students unless the provider's capacity is reached;

2. providing students with the agreed upon services;

3. completing all aspects noted in the agreement signed between the provider and the LEA;

4. communicating information to schools pertaining to their students' progress in the program;

5. demonstrating improvement in the students' achievement.

D. The department will work with providers to confirm that they are:

1. Providing students with the agreed upon services.

2. Completing all aspects noted in the agreement signed by the provider and the LEA.

3. Adhering to all agreements and responsibilities noted in all documents submitted as part of the RFA process.

E. Parent, student, and school feedback may necessitate the department to request written clarification from the provider. Should such a request of clarification be made, the provider is required to submit the requested information within 10 business days of the date the department made the request.

F. The LDOE *After School and Summer Information and Service Tracking* (ASSIST) System is designed to automate the tracking and reporting of after school and summer programs. The web-based system tracks students, site activities, site staff, student outcomes, student attendance and total contact hours for each program provider. SES Providers will be required to submit data to the LDOE through this mechanism.

G. If the Department of Education determines that one or more complaints about a provider have validity, the department may choose to commence a review of the provider. The complaints may arise from:

1. a school/school district;

2. a parent;

3. a student;

4. a representative of a governmental entity; or

5. a DOE annual review.

H. The department will acknowledge all reports received and will communicate the resolution to the source of the report. The department will require of any party bringing a complaint to explain and/or provide copies of all documents showing prior good-faith attempts to resolve the issue (except in cases of hazard, endangerment, etc.)

I. The department will, based on the nature of the complaint or deficient performance, first determine if a temporary suspension is appropriate. After review of the complaint, the department will then determine whether the state standards to participate on the List are being upheld. The provider shall be notified if it will continue to participate on the State-Approved List or be prohibited from continuing to provide services.

J. In the event that provider is suspended or terminated from the State-Approved List, the department will notify schools/districts in the provider's previously approved service area(s) of the provider's change in status.

K. Should a parent/guardian, student, or provider bring to the attention of the department an issue of complaint or

deficient performance regarding a school or district in relation to SES implementation, the department will bring the issue to the attention of the appropriate personnel in the school/district.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:766 (April 2004).

Chapter 39. Inclusion of Students with Disabilities

§3905. Inclusion of Alternate Assessment Results

A. LAA and LAA-B test scores shall be included in the 2002-2003 Baseline SPS, and LAA test scores shall be included in Growth and Baseline SPS calculations for all subsequent years.

B. LAA scores shall be converted according to the following method.

1. The 4 State-Specified-Skills scores within each subject area shall be averaged and those subject area averages (ELA, math, science, and social studies) shall be converted to scores using the following table.

a. Students enrolled in the Student Information System (SIS) in CRT grades (4, 8 10, 11) shall receive the CRT Level labels and the corresponding Index Points.

b. For students enrolled in NRT grades (3, 5, 6, 7, 9), the 4 subject area averages shall be converted to the 4 corresponding Index Scores, and those Index Scores averaged to create student level NRT indices.

LAA Score	Level	Index Points
0.00-0.49	Unsatisfactory	0
0.50-2.49	Approaching Basic	50
2.50-3.49	Basic	100
3.50-4.49	Mastery	150
4.50-5.00	Advanced	200

2. Students taking LAA who do not meet the alternate assessment participation criteria shall receive a score of zero in SPS component calculations and a score of non-proficient in subgroup component calculations.

3. Students taking LAA-B shall receive a score of zero in the Baseline SPS and a score of non-proficient in subgroup component calculations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004).

Chapter 40. Definitions Related to English Proficiency

§4001. Proficient in English

A. To be considered English proficient a student who is limited English proficient must score for:

1. Two Years

a. at either the proficient level according to the state's high stakes testing policy on LEAP 21 assessments, and/or

b. at or above the 40th percentile composite score on IOWA, and

2. One Year

a. at the Full English Proficiency Level V on the English Language Development Assessment in listening, speaking, reading, writing, and comprehension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004).

§4003. Making Progress in Learning English

A. Making progress in learning English will be demonstrated by a student who moves to a higher level of English proficiency as indicated by the annual assessment of English language proficiency using the English Language Development Assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004).

§4005. English Language Proficiency Descriptors

A. English Language Proficiency Labels are defined as:

1. Level I-Beginning Proficiency indicates that the student who is limited English proficient is:

a. beginning to understand short utterances;

b. beginning to use gestures and simple words to communicate;

c. beginning to understand simple printed material

d. beginning to develop communicative writing skills.

2. Level II-Lower Intermediate Proficiency indicates that the student who is limited English can:

a. understand simple statements, directions, and questions;

b. use appropriate strategies to initiate and respond to simple conversation;

c. understand the general message of basic reading passages;

d. compose short informative passages on familiar topics.

3. Level III-Upper Intermediate Proficiency indicates that the student who is limited English proficient can:

a. Level III-Upper Intermediate Proficiency indicates that the student who is limited English proficient can:

a. understand standard speech delivered in most settings;

b. communicate orally with some hesitation;

c. understand descriptive material within familiar contexts and some complex narratives;

d. Write simple texts and short reports.

4. Level IV-Advanced Proficiency indicates that the student who is limited English proficient can:

a. identify the main ideas and relevant details of discussions or presentations on a wide range of topics;

b. actively engage in most communicative situations familiar or unfamiliar;

c. understand the context of most text in academic areas with support;

d. write multi-paragraph essays, journal entries, personal/business, and creative texts in an organized fashion with some errors.

5. Level V-Full English Proficiency indicates that the student who is limited English proficient can:

a. understand and identify the main ideas and relevant details of extended discussion or presentations on familiar and unfamiliar topics

b. Is fluent and accurate in language production

c. Use reading strategies the same as their native English-speaking peers to derive meaning from a wide range of both social and academic texts

d. Write fluently using language structures, technical vocabulary, and appropriate writing conventions with some circumlocutions

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004).

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RULE

Board of Elementary and Secondary Education

Bulletin 112? Louisiana English Language Development Standards
(LAC 28:Part LXXXV.Chapters 1-7)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education adopted *Bulletin 112? Louisiana English Language Development Standards*, which contains content standards in each of the four domains of language, listening, speaking, reading, and writing, and establishes five levels of English language proficiency within each domain. Implementation of these standards and benchmarks will be used to guide curriculum development for limited English proficient students. The *Louisiana English Language Development Standards* are aligned to the State's *English Language Arts Standards* and linked to the State's *Math, Social Studies, Science,* and *Foreign Language Standards* as required by Title III of the Elementary and Secondary Education Act, No Child Left Behind of 2001.

Title 28
EDUCATION
Part LXXXV. Louisiana English Language Development Standards

Chapter 1. Standard One

§101. General Provisions

A. Standard One. Students demonstrate competence in listening as a tool for learning and comprehension.

B. Focus. As students who are limited English proficient move through the 5 levels of English listening proficiency from phonemic awareness to understanding short utterances and simple directions to understanding standard speech both in social and academic settings to understanding the main ideas and relevant details of extended discussions or presentations, these students will develop the English listening skills that will enable them to fully access the general education curriculum and achieve at the same academic levels as their native English-speaking peers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:768 (April 2004).

§103. Listening Benchmarks and Proficiency Levels

A. If cognitively appropriate, in grades K-12 what students who are limited English proficient should know and are able to do includes the following.

1. ELD-1-L1? Students demonstrate growth in comprehension of oral language and begin to access the curriculum in core subject areas (ELA -4).

a. Listening Proficiency Level I. Beginner: Students at this level are beginning to understand short utterances. They occasionally understand isolated words, such as cognates, borrowed words, or high frequency social conventions. The student is able to do the following:

i. detect non-verbal and verbal cues (L 1.1);

ii. focus attention selectively (L 1.2);

iii. demonstrate comprehension through non-verbal responses (L 1.3);

vi. respond correctly to high frequency social convention (L 1.4);

v. respond to simple directions or instructions (L 1.5);

vi. listen to and imitate others use of language (L 1.6);

vii. comprehend a few words, phrases with basic English grammatical forms (L 1.7).

2. ELD-1-L2? Students comprehend simple statements, directions, questions, and continue to access the curriculum in core subject areas (ELA -4).

a. Listening Proficiency Level II-Lower Intermediate. Students at this level understand simple statements, directions, and questions. They rely on a speaker's use of repetition, gestures, and other non-verbal cues to sustain communication. The student is able to do the following:

i. begin to discriminate the sounds and intonation patterns of the English language (L2.1);

ii. understand basic structures, expressions, and vocabulary such as school environment and basic personal information (L 2.2);

iii. comprehend key words, phrases and/or sentences with basic English grammatical forms (L2.3);

iv. follow multi-step oral directives to complete task (L 2.4);

v. interpret speaker's message, purpose, and perspectives (L 2.5);

vi. assess how language choice reflects the tone of the message (L 2.6).

3. ELD-1-L3? Students comprehend simple narratives and structures in short interactions with peers and adults, and continue to access the curriculum in core subject areas (ELA -5).

a. Proficiency Level III-Upper Intermediate. Students at this level understand standard speech delivered in most settings with some repetition and rephrasing. They understand the main idea(s) and relevant details of extended discussions or presentations. They draw on a wide range of language forms, vocabulary, idioms, and structures. Students at this level are beginning to detect affective undertones, and they understand inferences in spoken language. The student is able to do the following:

i. demonstrate proficiency of the listening process such as focusing attention, interpreting and responding to topics in everyday situations (L 3.1);

ii. listen attentively to stories/information and identify main idea, key details and concepts using both verbal and non-verbal cues of the speaker (L 3.2);

iii. identify a variety of media messages and give some supporting details (L 3.3).

4. ELD-1-L4? Students understand speech in most authentic situations with some repetition and rewording in both social and core academic setting approaching grade level listening comprehension (ELA 6).

a. Listening Proficiency Level IV-Advanced. Students at this level understand most standard speech. They identify main ideas and relevant details of discussions or presentations on a wide range of topics, including unfamiliar ones. Students infer meaning from stress, intonation, pace, and rhythm. The student is able to do the following:

i. listen to proficient, fluent models of oral reading, including selections from classic and contemporary works (L 4.1);

ii. use effective listening to provide appropriate feedback in variety of situations such as conversations, discussions, and informative, persuasive, or artistic presentations (L 4.2);

iii. demonstrate understanding of figurative language and idiomatic expressions by responding to and using such expressions appropriately (L 4.3).

5. ELD-1-L5. Students master comprehension of standard speech at grade level in both social and core academic settings (ELA 7).

a. Listening Proficiency Level V-Full English Proficiency. Students at this level understand and identify the main ideas and relevant details of extended discussions or presentations on a wide range of familiar and unfamiliar topics in a number of modalities. Students apply linguistic skills and knowledge, including vocabulary, idioms, and complex grammatical structures in the learning of academic content. They comprehend subtle and nuance details of meaning. The student is able to do the following:

i. differentiate between the speaker's opinion and verifiable fact (L 5.1);

ii. demonstrate comprehension of and give an appropriate listener response to ideas in a persuasive speech, oral interpretation of literary selections, interviews in a variety of real-life situations, and in educational and scientific presentations (L 5.2);

iii. identify, analyze and imitate a speaker's persuasive techniques such as selling, convincing, and using propaganda (L 5.3).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:768 (April 2004).

Chapter 3. Standard Two

§301. General Provisions

A. Standard Two. Students demonstrate competence in speaking for effective communication in social and academic contexts.

B. Focus. As students who are limited English proficient move through the 5 levels of English speaking proficiency from using simple words or phrases to initiating and responding to simple conversation to producing complex sentence structures to producing a high degree of fluency and accuracy when speaking to producing fluent and accurate language production in both social and academic situations, these students will develop English speaking skills that will enable them to fully access the general education curriculum and achieve at the same academic levels as their native English-speaking peers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:769 (April 2004).

§303. Speaking Benchmarks and Proficiency Levels

A. If cognitively appropriate, in grades K-12 what students who are limited English proficient should know and are able to do includes the following.

1. ELD-2-S1? Students will show growth in oral communication using high frequency words and phrases to begin to access the curriculum in core subject areas (ELA 4).

a. Speaking Proficiency Level I-Beginner. Students at this level use gestures, simple words or phrases when given sufficient context or visual cues to respond to or request information. The student is able to do the following:

i. communicate with gestures and non-verbal modalities (S 1.1);

ii. communicate using common social greetings and simple repetitive phrases (S 2.2);

iii. answer simple questions with one and two-word responses (S 2.3);

iv. communicate basic needs, wants, and feelings (S 2.4);

v. generate a few words, phrases with basic English grammatical form and phonemic accuracy (S 2.5).

2. ELD-2-S2? Students use appropriate strategies to initiate and respond to simple statements and questions to continue to access the curriculum in core subject areas (ELA 4).

a. Speaking Proficiency Level II-Lower Intermediate. Students at this level use appropriate strategies to initiate and respond to simple conversation with hesitation, relying on known vocabulary, familiar structures and utterances and may have to repeat themselves to be understood. The student is able to do the following:

i. name people, places, objects, events and basic concepts such as days of the week, food, occupations and time (S 2.1);

ii. restate oral directions or instructions (S 2.2);

iii. ask and give information such as directions, address, name, and age (S 2.3);

iv. ask and answer questions using simple phrases or sentences (S 2.4);

v. respond to factual questions about texts read aloud (S 2.5);

vi. narrate basic sequence of events (S 2.6).

3. ELD-2-S3? Students initiate and sustain a simple conversation in social and core academic settings (ELA 4,7).

a. Speaking Proficiency Level III-Upper Intermediate. Students at this level communicate orally, often with hesitation, when using low-frequency vocabulary. They begin to produce complex sentence structures, use verb tenses correctly, and discuss academic topics. The student is able to do the following:

i. ask and answer questions to gather and provide information in English (S 3.1);

ii. converse on simple topics begin to use most conventions of the oral English language including intonation, syntax, and grammar. (S 3.2);

iii. narrate simple sequence of events (S 3.3);

iv. retell and paraphrase familiar stories with simple sentences (S 3.4);

v. ask and answer instructional questions about simple written texts with simple words and phrases (S 3.5);

vi. give directions/procedures (S 3.6);

vii. prepare and deliver short oral presentations (S 3.7).

4. ELD-2-S4? Students approaching grade level communication with confidence in most situations with support in academic areas (ELA 4,7).

a. Speaking Proficiency Level IV-Advanced. Students at this level engage in most communicative situations with some errors, demonstrating competence in oral language. They have a high degree of fluency and accuracy when speaking in social settings, although they may encounter difficulty in academic language production. The student is able to do the following:

i. recognize appropriate ways of speaking that varies based on purpose, audience, and subject matter (S 4.1);

ii. respond to factual questions about texts read aloud (S 4.2);

iii. communicate effectively in conversations and group discussions while problem solving and planning (S 4.3);

iv. use the conventions of oral language effectively including intonation, syntax, and grammar (S 4.6);

v. narrate complex sequence of events (S 4.5);

vi. use a variety of idiomatic expressions and figurative language appropriately (S 4.6);

vii. persuade, argue or reason to support spoken ideas with evidence, elaborations, and examples (S 4.7).

5. ELD-2-S5? Students on grade level engage in social and academic communication with mastery of complex language structures in varied situations (ELA 4,7).

a. Speaking Proficiency Level V-Full English Proficiency. Students at this level are fluent and accurate in language production with some hesitation regarding technical content area vocabulary. The student is able to do the following:

i. adapt spoken language such as word choice, diction, and usage to the audience, purpose, and occasion (S 5.1);

ii. use effective, rate, volume, pitch, and tone for the audience and setting (S 5.2);

iii. actively participate and initiate more extended social conversations or discussions with peers and adults on familiar or unfamiliar topics by making relevant contributions, asking and answering questions, restating and soliciting information (S 5.3);

iv. demonstrate effective communication skills that reflect such demands as interviewing, reporting, requesting, and providing information (S 5.4);

v. prepare and deliver extended oral presentations that follow a process of organization using a variety of sources for a research project (S 5.5);

vi. explain abstract tasks an/or concepts with appropriate sequencing taking into account the listener's perspective (S 5.6);

vii. negotiate with confidence using complex language structures for expression of personal view of abstract ideas (S 5.7).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:769 (April 2004).

Chapter 5. Standard Three

§501. General Provisions

A. Standard Three. Students read, comprehend, analyze, and respond to a range of reading materials using various strategies for different purposes.

B. Focus. Students who are limited English proficient enter school with a wide range of literacy skills and abilities in their native language. As students move through the 5 levels of English reading proficiency from letter recognition to simple language structures and syntax to complex narratives to comprehending the context of most text to using the same reading strategies to derive meaning from a wide range of social and academic texts, these students will develop the English reading skills that will enable them to fully access the general education curriculum and achieve at the same academic levels as their native English- speaking peers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:770 (April 2004).

§503. Reading Benchmarks and Proficiency Levels

A. If cognitively appropriate, in grades K-12 what students who are limited English proficient should know and are able to do includes the following.

1. ELD-3-R1? Students develop initial print awareness and begin to access the curriculum in core subject areas (ELA 1, 5, 6, 7).

a. Reading Proficiency Level I-Beginner. Students at this level understand simple print material. Students identify high-frequency words and symbols when strongly supported by context. The student is able to do the following:

i. hold print material in the correct position (R 1.1);

ii. recognize common signs and logos (R 1.2);

iii. distinguish individual printed letters from words and sentences (R 1.3);

iv. identify words from left to right and top to bottom on the printed page (R 1.4);

v. recognize the order of the alphabet and the form of the letters, and Arabic numbers (R.3.5);

vi. know the difference between capital and lowercase letters (R 1.6);

vii. recognize phonetic pronunciation of the letters of the alphabet (R 1.7);

viii. match oral words to printed words or graphics (R. 1.8);

ix. read simple one syllable and high frequency words when strongly supported by context (R 3.9);

x. use emerging reading skills to make meaning from print (R 1.10).

2. ELD-3-R2. Students understand simple material form academic or social purposes to continue to access the curriculum in core subject areas (ELA 1, 5, 6, 7).

a. Reading Proficiency Level II-Lower Intermediate. Students at this level understand the general message of basic reading passages that contain simple

language structures and syntax. Students begin to use reading strategies to guess the meaning of unfamiliar words through the use of pictures, diagrams, cognates, and context. The student should be able to do the following:

i. use prior knowledge to interpret pictures (R 2.1);

ii. use pictures to make predictions about the text (R 2.2);

iii. recognize sound/symbol relationships (R 2.3);

iv. read common word families and simple sentences (R 2.4);

v. read compound words and contractions (R 2.5);

vi. use cognates for academic or social comprehension (R 2.6);

vii. recognize basic word order rules in phrases, simple sentences, or simple text (R 2.7).

3. ELD-3-R3? Students understand a more complex narrative and descriptive materials within a familiar context to continue to access the curriculum in core subject areas (ELA 1, 5, 6, 7).

a. Reading Proficiency Level III-Upper Intermediate. Students at this level understand descriptive materials within familiar contexts and some complex narratives. The student uses visual and contextual cues to derive meaning from text that contains unfamiliar words and expressions. There may be a disparity between reading fluency and comprehension. The student should be able to do the following:

i. demonstrate knowledge of taught contractions (R 3.1);

ii. recognize common abbreviations (R 3.2);

iii. use capitalization and punctuation to comprehend (R 3.3);

iv. locate the meanings, pronunciations, and derivations of unfamiliar words using dictionaries, glossaries, and other sources (R. 3.4);

v. recognize and use knowledge of spelling patterns when reading (R 3.5);

vi. recognize the format of poetry versus prose (R 3.6);

vii. identify the main idea (R 3.7).

4. ELD-3-R4? Students, approaching grade level, understand the content of most text with support in academic content areas (ELA 1, 5, 6, 7).

a. Reading Proficiency Level IV-Advanced. Students at this level comprehend the context of most text in the academic areas with some degree of support. They read many literary genres for pleasure and have a high degree of success reading factual but non-technical prose. The student should be able to do the following:

i. interact independently with a variety of text (R 4.1);

ii. recognize most common English morphemes in phrases and sentences (R 4.2);

iii. apply knowledge of word relationships, such as root and affixes to derive meaning from literature and text in content area (R 4.3);

vi. rely on context clues to determine meaning (R 4.4);

v. use reference materials including the glossary, dictionary, index, thesaurus, almanac, atlas, and multi-media resources (R 4.5);

vi. distinguish between main idea and supporting details (R 4.6).

5. ELD-3-R5? Students understand a wide range of both social and academic texts available to native English speakers at grade level (ELA 1,5, 6, 7).

a. Reading Proficiency Level V-Full English Proficiency. Students at this level use the same reading strategies as their native English-speaking peers to derive meaning from a wide range of both social and academic texts. The student should be able to do the following:

i. create artwork or a written response that shows comprehension of a selection (R 5.1);

ii. comprehend material from a variety of genres (R 5.2);

iii. draw correlations from literature and links to real life situations (R 5.3);

iv. name and analyze story plot, setting, and conflict (R 5.4);

v. analyze, evaluate, and draw conclusions by providing evidence presented in the text (R 5.5);

vi. organize, evaluate, and condense information for use in a presentation or writing (R 5.6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:770 (April 2004).

Chapter 7. Standard Four

§701. General Provisions

A. Standard Four. Students write proficiently in English for various purposes and audiences.

B. Focus. Students who are limited English proficient are expected to perform on an academic level commensurate with their English-speaking peers. As students move through the five levels of English writing proficiency from letter formation to composing short informative passages to short reports to multi-paragraph essays to writing fluently using language structures and writing conventions, these students will develop the writing skills that will enable them to fully access the general education curriculum and achieve at the same academic levels as their native English speaking-speaking peers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:771 (April 2004).

§703. Writing Benchmarks and Proficiency Levels

A. If cognitively appropriate, in grades K-12 what students who are limited English proficient should know and are able to do includes the following.

1. ELD-4-W1? Students demonstrate growth in communicative writing skills to begin to access the curriculum in core subject areas (ELA 2, 3).

a. Writing Proficiency Level I-Beginner. Students at this level are beginning to develop communicative writing skills including the formation of individual letters and transcription of familiar words or phrases. Instruction for these students will target alphabetic awareness and basic writing techniques relative to phonological and morphological areas. The student should be able to do the following:

i. draw or copy from a mode (W 1.1);

ii. print upper and lowercase letters of the alphabet (W 1.2);

iii. print legibly using left to right, top to bottom directionality (W 1.3);

iv. write his/her own name and other important words (W 1.4);

v. print legibly using correct spacing between letters and words and sentences (W 1.5);

vi. copy words posted and commonly used in the classroom (W 1.6);

vii. label key parts of common objects (W 1.7);

viii. capitalize first word of a sentence, proper nouns, and initials (W 1.8).

2. ELD-4-W2? Students compose short informative passages on familiar topics and continue to access the curriculum in core subject areas (ELA 2, 3).

a. Writing Proficiency Level II-Lower Intermediate. Students at this level describe basic personal needs and compose short informative passages on very familiar topics. Students use prior knowledge to build understanding of essential grammatical concepts and constructs such as syntax and semantics. The student should be able to do the following:

i. arrange words in alphabetical order (W 2.1);

ii. use phonetic spelling (W 2.2);

iii. produce several simple sentences on a topic (W 2.3);

iv. use correct punctuation at the end of a sentence (W 2.4);

v. write labels, notes, captions for illustrations, possessions, charts, and centers (W 2.5);

vi. fill out simple forms with personal information with support (W 2.6);

vii. begin to demonstrate knowledge of paragraph structure (W 2.7).

3. ELD-4-W3? Students write simple texts, correspondence, and short reports using high frequency language and continue to access the curriculum in core subject areas (ELA 2, 3).

a. Writing Proficiency Level III-Upper Intermediate. Students at this level write simple texts, personal/business letters, and short reports using high frequency language. Students recognize and correct obvious grammatical and syntactical errors. Students write various sentence patterns/structures. The student should be able to do the following:

i. begin to demonstrate conventional spelling (W 3.1);

ii. identify complete and incomplete sentences in written English (W 3.2);

iii. use basic grammatical constructions in simple sentences (W 3.3);

iv. write multiple sentences about a topic (W 3.4);

v. write with more proficient spelling of inflectional endings, including plurals, past tense, and words that drop the final e when such endings as ing, ed, or able are added, correctly use apostrophes in contractions and possessives. (W 3.5);

vi. write friendly notes and letters (W 3.6);

vii. edit writing for punctuation, capitalization and spelling (W 3.7).

4. ELD-4-W4? Students, approaching grade level, write multi-paragraph essays, journal entries, personal and business letters, and creative texts in an organized fashion both in social and core academic subject areas (ELA 2, 3).

a. Writing Proficiency Level IV-Advanced. Students at this level write multi-paragraphs essays, journal entries, personal/business letters, and creative texts in an organized fashion with some errors. Students refine English writing skills leading into more mature, stylistic, and expressive formats. The student should be able to do the following:

i. use planning strategies before writing (e.g.: process writing, graphic organizers) (W 4.1);

ii. use resources to find correct spellings, synonyms, and replacement words (W 4.2);

iii. use correct spelling of frequently used words in writing and words that contain affixes, contractions, compounds, common homophones, and words appropriate to the topic (W 4.3);

iv. write the accurate spelling of root words, affixes, and inflections (W 4.4);

v. spell derivatives correctly by applying the spelling of bases and affixes (W 4.5);

vi. write a three-paragraph essay about a topic (W 4.6);

vii. edit and revise writing for grammar and content (W 4.7);

viii. begin writing in a variety of genres (W 4.8).

5. ELD-4-R5? Students, at grade level, produce fluent academic writing using language structures, technical vocabulary, and appropriate writing conventions to access the curriculum in core subject areas (ELA 2, 3, 7).

a. Writing Proficiency Level V-Full English Proficiency. Students at this level write fluently using language structures, technical vocabulary, and appropriate writing conventions with some circumlocutions. Students continue to expand written vocabulary to express themselves in various genres. The student should be able to do the following:

i. organize and record expository information on pictures, lists, charts, and tables for literature and content area (W 5.1);

ii. write to inform such as to explain, describe, report, narrate and persuade (W 5.2);

iii. use figurative language correctly (W 5.3);

iv. use analogies, quotations and facts to support a thesis (W 5.4);

v. proofread writing for appropriateness of organization, content, style, and conventions (W 5.5);

vi. apply rubric criteria to evaluate writing (W 5.6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:771 (April 2004).

Weegie Peabody
Executive Director

0404#043

RULE

Board of Elementary and Secondary Education

Bulletin 741? Louisiana Handbook for School Administrators? Career and Technical Course Offerings (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 741? The Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR l:483 (November 1975). The changes of the Career and Technical course offerings will revise current course offerings, bringing them in-line with current industry standards. This action up-dates Career and Technical course offerings. In updating these course offerings our Career and Technical program of studies will be more aligned with national standards.

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 LR 28:269 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 30:773 (April 2004).

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Agriculture Education

2.105.25 Agriculture Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
Exploratory Agriscience	7-8	--
Agribusiness	11-12	1/2
Agriculture Education Elective (1/2 Credit)	9-12	1/2
Agriculture Education Elective (1 Credit)	9-12	1
Agriscience I	9-12	1
Agriscience II	10-12	1
Agriscience III	11-12	1
Agriscience IV	12	1
Agriscience III Laboratory	11-12	1
Agriscience IV Laboratory	12	1
Agriscience-Construction	11-12	1/2
Agriscience Elective	9-12	1
Agriscience-Entrepreneurship	11-12	1/2
Agriscience Internship I	11-12	2
Agriscience Internship II	12	2
Agriscience-Leadership Development	11-12	1/2
Agriscience Welding Systems I	11-12	1/2
Agriscience Welding Systems II	11-12	1/2
Animal Systems	11-12	1/2
Aquaculture	11-12	1l2
Biotechnology	11-12	1
Care and Management of Small Animals I	11-12	1/2
Care and Management of Small Animals II	12	1/2
Cooperative Agriscience Education I	11-12	3
Cooperative Agriscience Education II	12	3
Crop Systems	11-12	1/2
Environmental Application	11-12	1/2
Equine Science	11-12	1/2
Food and Fiber	11-12	1/2
Forestry	11-12	1/2
Horticulture I	11-12	1/2
Horticulture II	12	1/2
Precision Agriculture	11-12	1
Small Engines (Applications)	11-12	1/2
Industry Based Certifications		
ABC Carpentry in Agriscience (1 Credit)	10-12	1
ABC Carpentry in Agriscience (2 Credits)	10-12	2
ABC Carpentry in Agriscience (3 Credits)	10-12	3
ABC Electricity in Agriscience (1 Credit)	10-12	1
ABC Electricity in Agriscience (2 Credits)	10-12	2
ABC Electricity in Agriscience (3 Credits)	10-12	3
ABC Pipefitting in Agriscience (1 Credit)	10-12	1
ABC Pipefitting in Agriscience (2 Credits)	10-12	2
ABC Pipefitting in Agriscience (3 Credits)	10-12	3
ABC Welding in Agriscience (1 Credit)	10-12	1
ABC Welding in Agriscience (2 Credits)	10-12	2
ABC Welding in Agriscience (3 Credits)	10-12	3

Agriscience III and IV Laboratory, Agriscience Internship I and II, and Cooperative Agriscience Education I and II are offered only to students who are also enrolled in Agriscience III or Agriscience IV for two consecutive semester courses during the year.

Required prerequisites are outlined in the Agriculture Education section of *Career and Technical Education Course Descriptions & Programs of Study*. All courses shall be taught in sequence. Level I courses are prerequisite to Level II courses. Agriscience I is prerequisite to Animal Systems, Aquaculture, Crop Systems, Equine Science, Food and Fiber, Forestry, and Agriscience-Welding Systems I. Agriscience I and Biology I are prerequisites to Biotechnology. Agriscience I and/or enrolled simultaneously in Biology I are prerequisites to Environmental Application. Agriscience I or Biology I is prerequisite to Horticulture I. Agriscience II is prerequisite to Agriscience-Construction and Precision Agriculture. Agribusiness is prerequisite to Agriscience-Entrepreneurship.

Semester courses are designed to be offered in the place of, or in addition to Agriscience III and/or IV.

Safety must be taught in all courses. Refer to *Bulletin 1674* for safety information.

Business Education

2.105.26 Business Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
Accounting I	10-12	1
Accounting II	11-12	1
Administrative Support Occupations	11-12	1
Business Communications	10-12	1
Business Computer Applications	10-12	1
Business Education Elective I (1/2 Credit)	9-12	1/2
Business Education Elective I (1Credit)	9-12	1
Business Education Elective II (1/2 Credit)	9-12	1/2
Business Education Elective II (1 Credit)	9-12	1
Business English	12	1
Business Internship I	11-12	2
Business Internship II	12	2
Business Law	11-12	1/2
Computer Multimedia Presentations	11-12	1/2
Cooperative Office Education (COE)	12	3
Desktop Publishing	11-12	1
Computer Technology Literacy	9-12	1
Economics	11-12	1
Entrepreneurship	11-12	1

Financial Math	9-12	1
Introduction to Business Computer Applications	9-12	1
Keyboarding	9-12	1/2
Keyboarding Applications	9-12	1/2
Lodging Management I (1 Credit)	10-12	1
Lodging Management I (2 Credits)	10-12	2
Lodging Management I (3 Credits)	10-12	3
Lodging Management II (1 Credit)	11-12	1
Lodging Management II (2 Credits)	11-12	2
Lodging Management II (3 Credits)	11-12	3
Principles of Business	9-12	1
Web Design	10-12	1/2
Word Processing	11-12	1

Keyboarding and Keyboarding Applications or Introduction to Business Computer Applications shall be a prerequisite to Administrative Support Occupations, Business Computer Applications, Business Communications, Business English, Computer Multimedia Presentations, Telecommunications and Word Processing. Word Processing or Business Computer Applications is prerequisite to Desktop Publishing. Level I courses shall be prerequisite to Level II courses.

Cooperative Office Education shall be limited to seniors. The students shall have successfully completed Keyboarding/Keyboarding Applications or Introduction to Business Computer Applications and one of the following: ASO or Word Processing or BCA, and have maintained an overall "C" average. The students' attendance records should also be considered. Other prerequisites may be required by the individual school system.

English I, II, and III are prerequisites to Business English. BCA or Word Processing is prerequisite to Computer Multimedia Presentations. A basic computer course shall be prerequisite to Telecommunications. To enroll in Web Design, the student must have completed one or more of the following: Desktop Publishing, Business Computer Applications, Computer Science, Computer Multimedia or Telecommunications.

General Career and Technical Education

2.105.27 General Career and Technical Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
Career and Technical Education Internship I	11-12	2
Career and Technical Education Internship II	12	2
General Cooperative Education I	11-12	3
General Cooperative Education II	12	3
Education for Careers	9-12	1/2
Education for Careers	9-12	1
Teacher Cadet I	11-12	1
Teacher Cadet II	12	1

General Cooperative Education courses shall be limited to students who meet the specific prerequisites and requirements of one of the specialized cooperative education programs.

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Executive Director

0404#044

RULE

Board of Elementary and Secondary Education

Bulletin 741? Louisiana Handbook for School Administrators? Curricular Design for Exceptional Students
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 741? The Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR l:483 (November 1975). These revisions to Bulletin 741 repeal the rules that address alternate assessment and curricular design for students with disabilities in special schools. The rules are being repealed in order to be consistent with rules governing students with disabilities not attending special schools.

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 LR 28:269, 272, (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 30:774 (April 2004).

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Assessment

3.087.11 Repealed.

Curricular Design for Exceptional Students

3.087.15 Repealed.

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Executive Director

0404#045

RULE

Board of Elementary and Secondary Education

Bulletin 746? Louisiana Standards for State Certification of School Personnel? Deadline Date for Completing Endorsements
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to *Bulletin 746? Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy extends the deadline date from July 1, 2004, to August 31,

2004, for teachers to complete requirements for adding endorsements under the old regulations, prior to the new certification structure of July 1, 2002. The new deadline allows candidates an additional summer semester to complete the old requirements. This action extending the deadline date was requested by higher education institutional providers of certification coursework.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§903. Teacher Certification Standards and Regulations

A. Bulletin 746

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 28:2505 (December 2002), LR 29:117, 119, 121 (February 2003), LR 30:775 (April 2004).

* * *

Deadline Date for Completing Endorsement Requirements under Guidelines that Preceded the July 1, 2002, Certification Structure

The new Louisiana certification structure became effective July 1, 2002, setting categories for certification levels as Early Childhood, Elementary, Middle School, and Secondary. Many of the old regulations for adding endorsement areas were superseded by regulations under the new certification structure.

Teachers who began requirements for adding endorsements under the old regulations are allowed until August 31, 2004, to complete endorsement requirements under the old regulations.

* * *

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0404#046

RULE

Board of Elementary and Secondary Education

Bulletin 746? Louisiana Standards for State Certification of School Personnel? PRAXIS Exams and Passing Scores for Louisiana Certification (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to *Bulletin 746? Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy specifies the exam and passing score(s) for the following certification areas: Business Education; Middle School Science; and Middle School Social Studies. Relative to the two middle school exams, this action continues the Board's alignment of PRAXIS testing policy with the No Child Left Behind Act of 2001. Additionally, the board periodically revisits passing scores of previously adopted exams and adopts new passing scores, as is the case with the exam for Business Education.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§903. Teacher Certification Standards and Regulations

A. Bulletin 746

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), LR 28:2505 (December 2002), LR 29:117, 119, 121 (February 2003), LR 30:775 (April 2004).

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PRAXIS/NTE SCORES

Minimum Score Requirements for Certification in Louisiana, Effective 6/1/04

(See next pages for NTE tests/scores required for certification in Louisiana prior to 9/1/99* and as of 9/1/99)

Area Test	Area Score	Pre-Professional Skills Test			Principles of Learning & Teaching			
		**PPST:R	**PPST:W	**PPST:M	PLT K-6	PLT 5-9	OR	PLT 7-12
Administration and Supervision (0410)	620	---	---	---	---	---		---
Agriculture***	---	172	171	170	---	---		161
Art Education***	---	172	171	170	161	154	or	161
Biology & General Science (0030)	580	172	171	170	---	---		161
Business Education (0100)	570	172	171	170	---	---		161
Chemistry/Physics/General Science (0070)	530	172	171	170				161
Early Childhood PK-3: Elementary Education: Content Knowledge #0014	150	172	171	170	Pedagogy Requirement: Early Childhood Education (0020) 510			
Elementary Education: Through 9/30/02: Curriculum, Instruction, & Assessment (0011) Content Area Exercises (0012) Effective 10/1/02: Content Knowledge (#0014) Effective 6/1/04: Content Knowledge (#0014)	 156 137 147 150	172	171	170	161	---		---
English Language, Literature, & Composition: Content Knowledge (0041) Pedagogy (0043)	 160 130	172	171	170	---	---		161
French: Content Knowledge (0173)	156	172	171	170	---	---		161
German (0180)	500	172	171	170	---	---		161
Home Economics Education (0120)	510	172	171	170	---	---		161
Industrial Arts Education***	---	172	171	170	---	---		161
Mathematics: Content Knowledge (0061) Effective 6/1/07 Effective 6/1/10	125 130 135	172	171	170	---	---		161
Middle School: Mathematics (0069) Middle School: Science (0439) Effective 6/1/06 Effective 6/1/09 Middle School: Social Studies (0089)	148 140 145 150 149	172	171	170	---	154		---
Music: Content Knowledge (0113)	151	172	171	170	161	154	or	161
ParaPro Assessment (0755)	450	---	---	---	---	---	---	---
Physical Education: Content Knowledge (0091)	146	172	171	170	161	154	or	161
Spanish: Content Knowledge (0191)	160	172	171	170	---	---		161
Social Studies: Content Knowledge (0081) Interpretation of Materials (0083)	 149 152	172	171	170	---	---		161
Speech Communications***	---	172	171	170	---	---		161

*Individuals who achieved the required NTE score(s) may use those in lieu of the replacement PRAXIS test.
**Computerized PPST (C-PPST) available as an option.
***Area test is not required for certification in Louisiana.

PPST:R? Pre-Professional Skills Test: Reading (0710)
PPST:W? Pre-Professional Skills Test: Writing (0720)
PPST:M? Pre-Professional Skills Test: Mathematics (0730)
PLT K-6? Principles of Learning & Teaching K-6 (0522)
PLT 5-9? Principles of Learning & Teaching 5-9 (0523)
PLT 7-12? Principles of Learning & Teaching 7-12 (0524)

Computer-Based Tests (prior to 1/16/02):
CBT Reading (0711) 319
CBT Writing (0721) 316
CBT Mathematics (0731) 315
Computerized PPST (after 1/16/02)--same passing scores as written PPST: Reading (#5710), Writing (#5720), Mathematics, (#5730)

All Praxis scores used for certification must be sent directly from ETS to the State Department of Education electronically, or the original Praxis score report from ETS must be submitted with candidate's application.

Special Education Areas

Area Test	Area Score	Pre-Professional Skills Test			Pedagogy Requirement	
		**PPST:R	**PPST:W	**PPST:M		
Early Interventionist		172	171	170	Education of Exceptional Students: Core Content Knowledge (0353)	143
Hearing Impaired		172	171	170	Education of Exceptional Students: Core Content Knowledge (0353) Education of Deaf and Hard of Hearing Students (0271)	143 160
Mild to Moderate Disabilities		172	171	170	Education of Exceptional Students: Core Content Knowledge (0353) Education of Exceptional Students: Mild to Moderate Disabilities (0542)	143 141
Severe to Profound Disabilities		172	171	170	Education of Exceptional Students: Core Content Knowledge (0353) Education of Exceptional Students: Severe to Profound Disabilities (0544)	143 147

Praxis/NTE Scores

Minimum Score Requirements for Certification in Louisiana, Effective 9/1/99 (and later, as noted)

Area Test	Area Score	Pre-Professional Skills Test			Principles of Learning & Teaching			
		**PPST:R	**PPST:W	**PPST:M	PLT K-6	PLT 5-9	OR	PLT 7-12
Administration and Supervision (0410)	620	---	---	---	---	---		---
Agriculture***	---	172	171	170	---	---		161
Art Education***	---	172	171	170	161	154	or	161
Biology & General Science (0030)	580	172	171	170	---	---		161
Business Education (0100)	540	172	171	170	---	---		161
Chemistry/Physics/General Science (0070)	530	172	171	170				161
Early Childhood Education (0020)	510	172	171	170	161	---		---
Elementary Education: Through 9/30/02: Curriculum, Instruction, & Assessment (0011) Content Area Exercises (0012) Effective 10/1/02: Content Knowledge (#0014)	 156 137 147	172	171	170	161	---		---
English Language, Literature, & Composition: Content Knowledge (0041) Pedagogy (0043)	 160 130	172	171	170	---	---		161
French (0170)	520	172	171	170	---	---		161
German (0180)	500	172	171	170	---	---		161
Home Economics Education (0120)	510	172	171	170	---	---		161
Industrial Arts Education***	---	172	171	170	---	---		161
Mathematics (0060)	550	172	171	170	---	---		161
Middle School Effective 10/1/02: Content: Knowledge (0146)	 150	172	171	170	---	154		---
Music Education (0110)	530	172	171	170	161	154	or	161
Physical Education (0090)	550	172	171	170	161	154	or	161
Social Studies: Content Knowledge (0081) Interpretation of Materials (0083)	 149 152	172	171	170	---	---		161
Spanish (0190)	540	172	171	170	---	---		161
Special Education***	---	172	171	170	161	154	or	161
Speech Communications***	---	172	171	170	---	---		161

*Individuals who achieved the required NTE score(s) may use those in lieu of the replacement PRAXIS test.
**Computerized PPST (C-PPST) available as an option.
***Area test is not required for certification in Louisiana.

PPST:R? Pre-Professional Skills Test: Reading (0710)
PPST:W ? Pre-Professional Skills Test: Writing (0720)
PPST:M? Pre-Professional Skills Test: Mathematics (0730)
PLT K-6? Principles of Learning & Teaching K-6 (0522)
PLT 5-9? Principles of Learning & Teaching 5-9 (0523)
PLT 7-12? Principles of Learning & Teaching 7-12 (0524)

Computer-Based Tests (prior to 1/16/02):
CBT Reading (0711) 319
CBT Writing (0721) 316
CBT Mathematics (0731) 315
Computerized PPST (after 1/16/02)? same passing scores as written PPST: Reading (#5710), Writing (#5720), Mathematics, (#5730)

All Praxis scores used for certification must be sent directly from ETS to the State Department of Education electronically, or the original Praxis score report from ETS must be submitted with candidate's application.

NTE Scores

NTE Minimum Score Requirements for Certification in Louisiana Prior to September 1, 1999

Area Test	Area Score	Core Battery Test		
		CS	GK	PK
Administration and Supervision (0410)	620	---	---	---
Agriculture*	---	645	644	645
Art Education*	---	645	644	645
Biology & General Science (0030)	580	645	644	645
Business Education (0100)	540	645	644	645
Chemistry/Physics/General Science (0070)	530	645	644	645
Early Childhood Education (0020)	510	645	644	645
Education in Elementary School (0010)	550	645	644	645
English Language/Literature (0040)	550	645	644	645
French (0170)	520	645	644	645
German (0180)	500	645	644	645
Home Economics Education (0120)	510	645	644	645
Industrial Arts Education*	---	645	644	645
Mathematics (0060)	550	645	644	645
Music Education (0110	530	645	644	645
Physical Education (0090)	550	645	644	645
Social Studies (0080)	550	645	644	645
Spanish (0190)	540	645	644	645
Special Education *	---	645	644	645
Speech*	---	645	644	645

*Area test is not required for certification in Louisiana.
CS = Core Battery: Communication Skills (0500)
GK = Core Battery: General Knowledge (0510)
PK = Core Battery: Professional Knowledge (0520)

See previous page for PRXIS/NTE tests/scores required for certification in Louisiana, effective SEPTEMBER 1, 1999

* * *

Weegie Peabody
Executive Director

0404#047

RULE

Board of Elementary and Secondary Education

Bulletin 1706? Regulations for Implementation of the Children with Exceptionalities Act
Students with Disabilities
(LAC 28:XLIII.373, 449, 517, 519, and 904)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, Board of Elementary and Secondary Education adopted amendments to *Bulletin 1706? Regulations for Implementation of the Children with Exceptionalities Act*, R.S. 17:1941 et seq., (LAC 28:XLIII). The Rule changes include the removal of the declassified Individualized Education Programs (IEP), technical amendments to reference other sections of the bulletin, add a definition of proposed provisional Certificate of Achievement, and definition of preschool intervention settings. The declassified IEP is removed to clarify the responsibilities of the local education agencies (LEAs) for students who are no longer eligible as students with disabilities. The Rule on provisional Certificate of Achievement is requested to comply with the policies of the State Board of Elementary and Secondary Education. Technical changes are made to comply with the Individuals with Disabilities Education Act (IDEA), and the definitions of preschool intervention settings are made to clarify what is meant by the terminology used in the Least Restrictive Environment section of the bulletin.

Title 28
EDUCATION
Part XLIII. Bulletin 1706? Regulations for Implementation of the Children with Exceptionalities Act (R.S. 17:1941, et seq.)
Subpart 1. Regulations for Students with Disabilities
Chapter 3. Responsibilities and Activities of the Division of Special Populations
§373. Administration of Funds

A. - D. …

E. Determination of eligibility of students shall be accomplished through the verification procedures of the department regarding the accuracy of the Child Count as detailed in §491. In order to verify the accuracy of each Count submitted, the department will conduct prescribed activities:

1. - 2. …

3. An on-site Child Count review shall be conducted in accordance with the Compliance Monitoring Procedures. If necessary, each system may be monitored for previous years to verify the accuracy of the Child Count. During fiscal monitoring of each LEA, the monitors will randomly select at least 10, but not more than 20, names from the Child Count report. For each name, the LEA shall provide the student name, date of birth, evaluation report, IEP, class rolls, and any other information that may be necessary to verify the accuracy of the Count.

E.4. - G.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:647 (April 2000), amended LR 30:778 (April 2004).

Chapter 4. Responsibilities of Local Educational Agencies

§449. IEP Declassification Placement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:647 (April 2000), amended LR 29:870 (June 2003), repealed LR 30:779 (April 2004).

Chapter 5. Procedural Safeguards

§517. Confidentiality of Information

A. - L.1. …

2. Any persons collecting or using personally identifiable information shall receive training or instruction regarding the state's policies and procedures under §355 of these regulations, 34 CFR Part 99, and Part B of IDEA.

L.3. - P.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:651 (April 2000), amended LR 29:873 (June 2003), LR 30:779 (April 2004).

§519. Discipline Procedures for Students with Disabilities

A. - M.4. …

5. The hearing shall be conducted according to guidelines established in §508 of these Regulations, where appropriate, except for the timelines at §508.C.4., and according to guidelines established by the department.

M.6. - N.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:651 (April 2000), amended LR 29:873 (June 2003), LR 30:779 (April 2004).

Chapter 9. Definitions

§904. Definitions

* * *

Certificate of Achievement-Provisional Eligibility Criteria? an exit document issued to a student with a disability after he or she has achieved certain competencies and has met specified conditions as listed below.

1. - 1.d. ...

e. or

i. who participated in LAA in the Spring of 2002 or Spring 2003;

ii. who are disabled under the mandated criteria;

iii. who participated in LEAP Alternate Assessment in their first or third years of high school; and

iv. whose IEP team determined would not be eligible to participate in alternate assessment under the revised LEAP Alternate Assessment Participation Criteria.

2. - 2.f. …

* * *

Preschool-Aged Students with Disabilities Placement Options? as defined below, do not reflect a continuum of least restrictive environment and may include a combination of any of these settings.

1. *Early Childhood Setting*? students receive all of their special education and related services in educational programs designed primarily for children without disabilities. No education or related services are provided in separate special education settings. This may include, but is not limited to:

a. regular kindergarten classes;

b. public or private preschools;

c. Head Start Centers;

d. child care facilities;

e. preschool classes offered to an eligible pre-kindergarten population by the public school system;

f. home/early childhood combinations;

g. home/Head Start combinations; and

h. other combinations of early childhood settings.

2. *Early Childhood Special Education Setting*? students receive all of their special education and related services in educational programs designed primarily for children with disabilities housed in regular school buildings or other community-based settings. No education or related services are provided in early childhood settings. This may include, but is not limited to:

a. special education classrooms in regular school buildings;

b. special education classrooms in child care facilities, hospital facilities on an outpatient basis, or other community-based settings; and

c. special education classrooms in trailers or portables outside regular school buildings.

3. *Home*? students receive all of their special education and related services in the principal residence of the child's family or caregivers.

4. *Part-Time Early Childhood/Part-Time Early Childhood Special Education Setting*? students receive services in multiple settings, such that general and/or special education and related services are provided at home or in educational programs designed primarily for children without disabilities, and special education and related services are provided in programs designed primarily for children with disabilities. This may include, but is not limited to:

a. home/early childhood special education combinations;

b. Head Start, child care, nursery school facilities, or other community-based settings with special education provided outside of the regular class;

c. regular kindergarten classes with special education provided outside of the regular class;

d. separate school/early childhood combinations.

5. *Residential Facility*? students receive all of their special education and related services in publicly or privately operated residential schools or residential medical facilities on an inpatient basis. This may include, but is not limited to:

a. hospitals; and

b. nursing homes.

6. *Separate School*? students receive all of their special education and related services in educational programs in public or private day schools designed specifically for children with disabilities.

7. *Itinerant Service outside the Home*? students receive all of their special education and related services at a school, hospital facility on an outpatient basis or other location for a short period of time (no more than three hours per week). (This does not include children who receive

services at home for three hours or less per week. This would be included in the home setting.) These services may be provided individually or to a small group of children. This may include, but is not limited to: speech instruction, APE and assistive technology up to three hours per week in a school, hospital, or other community-based setting. (A combination of services may not exceed three hours per week). Children receiving all of their special education and related services at a school, hospital facility on an outpatient basis, or other location for longer than three hours per week must be reported under early childhood special education setting or early childhood setting, depending on whether the program was designed primarily for students with or without disabilities.

8. *Reverse Mainstream Setting*? students receive all of their special education and related services in educational programs designed primarily for children with disabilities but that include 50 percent or more children without disabilities.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:651 (April 2000), amended LR 29:878 (June 2003), LR 30:779 (April 2004).

Weegie Peabody
Executive Director

0404#048

RULE

Board of Elementary and Secondary Education

Bulletin 1794? State Textbook Adoption Policy and Procedure Manual? Home Study Program
(LAC 28:XXXIII.517)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to *Bulletin 1794? State Textbook Adoption Policy and Procedure Manual*, referenced in LAC 28:XXXIII. Bulletin 1794 is being revised in order to allow local education agencies (LEAs) to secure a deposit, equal to the replacement cost(s), for textbooks provided to students in approved home study programs. The current deposit of 50 percent does not provide for the replacement of materials that are not returned to the LEA. This action is required by action of the State Board of Elementary and Secondary Education, in exercising its administrative and oversight authority for the state textbook adoption process.

Title 28
EDUCATION
Part XXXIII. Bulletin 1794? State Textbook Adoption Policy and Procedure Manual
Chapter 5. Local School System Responsibilities
§517. Textbooks for Home Study Program

A. - A.3. ...

4. provide a deposit equal to 100 percent of the replacement cost. Such deposit will be returned when the books are returned. If books are not returned or paid for, the parent or legal guardian shall not be eligible to continue participation in the textbook rental program until all textbooks debts have been cleared.

NOTE: Only one grade level set of texts per child per subject is available at any single time.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4), 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 25:1445 (August 1999), repromulgated LR 26:1001 (May 2000), amended LR 30:780 (April 2004).

Weegie Peabody
Executive Director

0404#049

RULE

Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Programs? Discharge of Obligation
(LAC 28:IV.911, 1111, and 2105)

The Louisiana Student Financial Assistance Commission (LASFAC) is amending its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).

Title 28
EDUCATION
Part IV. Student Financial Assistance? Higher Education Scholarship and Grant Programs
Chapter 9. TOPS Teacher Award
§911. Discharge of Obligation

A. - B.4. …

C. Discharging the loan by Monetary Repayment. Recipients who elect not to discharge the obligation by teaching and who are not eligible for discharge by cancellation must repay the loan principal plus accrued interest and any collection costs incurred according to the following terms and conditions:

1. - 3.c. …

4. unless the recipient qualifies for reduced payments as provided in §2105.H, the amount to be repaid annually will be the greater of:

a. the amount necessary to repay the capitalized loan principal within 10 years; or

b. $1,200 per year or the unpaid balance, whichever is less;

C.5. - D.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 26:69 (January 2000), LR 26:1603 (August 2000), LR 27:1858 (November 2001), LR 28:774 (April 2002), LR 30:780 (April 2004).

Chapter 11. Rockefeller State Wildlife Scholarship
§1111. Discharge of Obligation

A. - B. …

C. Monetary Repayment. Recipients who do not discharge the obligation by graduating in an eligible major and who are not eligible for discharge by cancellation must repay the loan principal, plus accrued interest and any collection costs incurred in accordance with the following terms and conditions:

1. - 3.b. …

4. unless the recipient qualifies for reduced payments as provided in §2105.H, the annual repayment amount will be the greater of:

a. the amount necessary to repay the capitalized loan principal within seven years; or

b. $1,200 per year or the unpaid balance, whichever is less;

C.5. - D.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:640 (April 1998), amended LR 24:1910 (October 1998), repromulgated LR 27:1868 (November 2001), amended LR 28:775 (April 2002), LR 30:780 (April 2004).

Chapter 21. Miscellaneous Provisions and Exceptions

§2105. Repayment Obligation, Deferment, Cancellation and Reduced Payments

A. - G.2. …

H. Reduced Payments

1. Recipients who do not discharge the obligation by graduating in an eligible major and who are not eligible for discharge by cancellation must repay the loan principal, plus accrued interest and any collection costs incurred. Recipients in repayment status may request a temporary hardship repayment schedule that may be approved by LOSFA, upon receipt of documentation evidencing one or more of the following conditions:

a. the recipient is receiving federal or state public assistance;

b. the recipient's total gross, yearly income does not exceed the current federal poverty level for his/her state;

c. the recipient is experiencing a severe temporary medical condition and is unable to meet his/her financial obligations; or

d. the recipient has experienced a severe personal catastrophe or calamity and is temporary unable to meet his/her financial obligations.

2. If allowed by LOSFA, such reduced payments will continue as long as the condition(s) exist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1869 (November 2001), amended LR 28:775 (April 2002), LR 28:2331 (November 2002), LR 30:781 (April 2004).

George Badge Eldredge
General Counsel

0404#032

RULE

Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Programs? Maintaining Eligibility
(LAC 28:IV.705 and 805)

The Louisiana Student Financial Assistance Commission (LASFAC) is amending the rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

Title 28
EDUCATION
Part IV. Student Financial Assistance? Higher Education Scholarship and Grant Programs

Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§705. Maintaining Eligibility

A. To continue receiving the TOPS Opportunity, Performance or Honors Awards, the recipient must meet all of the following criteria:

1. - 6.a. …

b. in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree at an eligible college or university, earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or term in the program year (Non-Academic Program). Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

A.7. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996, 2001 (September 2000), repromulgated LR 27:1853 (November 2001), amended LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003), LR 30:781 (April 2004).

Chapter 8. TOPS-TECH Award

§805. Maintaining Eligibility

A. To continue receiving the TOPS-TECH Award, the recipient must meet all of the following criteria:

1. have received the TECH Award for not more than two years, except as provided by §805.C, or unless reduced as required by §503.D;

2. - 7. …

8. maintain, by the end of the spring term, a cumulative college grade point average of at least 2.50 on a 4.00 maximum scale; and

9. earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the

institution for each semester or term in the program year (Non-Academic Program). Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998), amended LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), repromulgated LR 27:1856 (November 2001), amended LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003), LR 30:781 (April 2004).

George Badge Eldredge
General Counsel

0404#038

RULE

Student Financial Assistance Commission
Office of Student Financial Assistance

Youth ChalleNGe Skills Training Program (GO-Youth)
(LAC 28:IV.Chapter 15, 1701, 1901, 1903, and 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) is amending the rules of the Scholarship/Grant programs (R.S.17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

Title 28
EDUCATION
Part IV. Student Financial Assistance? Higher Education Scholarship and Grant Programs
Chapter 15. Grant Opportunity for Youth ChalleNGe Skills Training Program

§1501. General Provisions

A. Legislative Authority. The Louisiana Grant Opportunity for Youth ChalleNGe Skills Training Program (the GO-Youth ChalleNGe Program) was created by Act 826 of the 2003 Regular Session of the Louisiana Legislature.

B. Purpose. It is the purpose of the program to encourage and assist those students who graduate from the Louisiana National Guard's Youth ChalleNGe Program to continue their education and enhance their employment opportunities by providing tuition at an eligible Louisiana postsecondary institution.

C. Effective Dates. The program shall be available to any student who completes the Louisiana National Guard's Youth ChalleNGe Program after June 30, 2003.

D. Eligible Courses of Study. The program grant may be used to pursue postsecondary skill or occupational training, including a vocational technical education certificate or diploma or a nonacademic undergraduate degree.

E. Eligible Institutions. Eligible students may use the program grant at the following institutions:

1. Louisiana public community colleges that offer skill or occupational training and the Louisiana Technical College; and

2. a regionally accredited independent college or university in the state that is a member of the Louisiana Association of Independent Colleges and Universities and offers skill or occupational training.

F. Grant Amounts. The program grant shall be paid for a period not to exceed the equivalent of two program years (non-academic) in an amount:

1. equal to the actual cost of tuition for a student enrolled in a Louisiana public postsecondary institution;

2. equal to the average tuition amount paid for students attending public postsecondary institutions for a student enrolled at a regionally accredited independent college or university in the state that is a member of the Louisiana Association of Independent Colleges and Universities. See Section 1903.B.8.b and c for method of computation.

G. Definitions. For the purposes of this Chapter, the following definitions are applicable:

Certification? the time at which LOSFA has received both the certification from the State Military Department and the results of the FAFSA data from the federal processor.

FAFSA? the Free Application for Federal Student Aid used to apply for federal grant aid and eligibility for other federal assistance.

Graduate? a student who has completed the Louisiana GO-Youth ChalleNGe Program and, no later than 18 months after entry into the program, received a *Louisiana High School Equivalency Diploma*.

Program? the GO-Youth ChalleNGe Program.

Resident of Louisiana? a student who actually resides in Louisiana during the 24 months prior to the month the student enrolls for the first time as a *full-time student* in an eligible institution as a recipient of a grant under the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:782 (April 2004).

§1503. Establishing Initial Eligibility

A. To establish initial eligibility for participation in the program, the student must meet all of the following criteria:

1. be a citizen of the United States or designated by the U.S. Bureau of Citizenship and Immigration Services as a permanent resident; and

2. be a Resident of Louisiana, as defined in §1501; and

3. graduate from the residential phase of the Louisiana National Guard's Youth ChalleNGe Program; and

4. have earned a Louisiana High School Equivalency Diploma; and

5. not have a criminal conviction, except for misdemeanor traffic violations; and

6. if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

7. submit a FAFSA for every year of enrollment in a postsecondary institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:782 (April 2004).

§1505. Deadline to Enroll as a Full-Time Student

A. In order to receive a grant under the program, a student must have met the criteria defined in §1503 and, unless granted an exception for cause by LASFAC, enrolled as a full time student:

1. not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student graduated from the Louisiana National Guard's Youth ChalleNGge Program; or

2. if the student Joins the United States Armed Forces upon graduation from the Louisiana National Guard's Youth ChalleNGe Program, not later than the semester, excluding summer semesters or sessions, immediately following the fifth anniversary of the date that the student graduated Louisiana National Guard's Youth ChalleNGe Program or within one year from the date of discharge or one year from separation from active duty, whichever is earlier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1 –3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:783 (April 2004).

§1507. Maintaining Eligibility

A. To continue receiving the program grant, the student must meet all of the following criteria:

1. have received the program grant for not more than two years, unless granted an exception for cause; and

2. continue to enroll each subsequent semester or quarter (excluding summer sessions and intersessions unless required by the institution for a particular course of study) as a full-time student, unless granted an exception for cause; and

3. maintain Steady Academic Progress as defined in §301; and

4. earn at least 24 hours each program year (non-academic program) as defined in §301, unless granted an exception for cause; and

5. maintain a cumulative grade point average of at least 2.50 on a 4.00 scale at the end of each program year (non-academic program); and

6. not have a criminal conviction, except for misdemeanor traffic violations; and

7. if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

8. submit a FAFSA or renewal FAFSA for each academic year during which the student is enrolled in a postsecondary institution.

B. Students failing to meet the requirements listed in §1507.A.3 and 5 may have their tuition grants reinstated upon regaining Steady Academic Progress (See §301.) and/or attainment of the required GPA, if the student has maintained other continuation requirements and the period of ineligibility did not persist for more than one year from the date of loss of eligibility. If the one year period is interrupted due to a student's active duty in the United States Armed Forces, the one year period will be extended for the length of time equal to the student's active duty service, not to exceed four years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:783 (April 2004).

§1509. Responsibilities of the State Military Department (SMD)

A. The State Military Department is responsible for determining whether participants in the Louisiana Youth ChalleNGe Program meet the eligibility requirements to participate in the program set forth in §1503.A.1-6 above. The submission of a student's data for the GO-Youth ChalleNGe Program shall constitute a certification by the State Military Department that the student meets the requirements of §1503.A.1-6, specified above, except that the certification shall not include the certification of residency required by §1503.A.2, if a participant does not meet the residency requirement at the time the participant is awarded a Louisiana High School Equivalency Certificate.

B. For each student determined to be eligible to participate in the program, the State Military Department shall provide the following student data in an electronic file format acceptable to LOSFA:

1. name;
2. Social Security number;
3. permanent mailing address;
4. telephone number;
5. date enrolled in the Louisiana Youth ChalleNGe Program;
6. date the student completed the residential phase of the Louisiana National Guard's Youth ChalleNGe Program;
7. date received a Louisiana High School Equivalency Diploma;
8. students' order of merit ranking within their class; and
9. if the student does not have 24 months of Louisiana residency at the time the Louisiana High School Equivalency Certificate is awarded, the date of initial Louisiana residency.

C. To the extent funds are appropriated to the State Military Department to fund the program, the State Military Department shall take such actions as are necessary to promptly transfer such funds to LOSFA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:783 (April 2004).

§1511. Responsibilities of LOSFA

A. Upon certification by the SMD that students have met program criteria, LOSFA shall make the students eligible for the program grant as long as funds appropriated for that purpose are available.

B. LOSFA shall determine whether participants meet the residency requirement in §1503.A.2 above, if the residency requirement has not been met at the time the participant earns a Louisiana High School Equivalency Certificate.

C. Upon receipt of bills from institutions submitted in accordance with §1903.B, LOSFA will reimburse the institution for each eligible student in accordance with §1903.

D. LOSFA shall conduct audits of the Louisiana Youth ChalleNGe Program campuses and postsecondary institutions to ensure compliance with program requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:783 (April 2004).

§1513. Funding Shortfall

A. LOSFA shall not make students eligible if funds appropriated for the program are not available or if funds have not been appropriated for the program.

B. In the event appropriated funds are insufficient to fully reimburse institutions for the grants for all students determined eligible for the program for a given academic year, then the number of eligible students shall be reduced in accordance with the following procedures until such funds are sufficient.

1. Awarded students who meet the requirements for continuation will be funded first; however, if there are insufficient funds for all such students, the students who have completed the most hours will be funded first and, if there are ties, the students with the highest cumulative grade point average will be funded first.

2. Any remaining students will be awarded according to their order of merit as determined by the SMD, based on the student's performance in the Louisiana Youth ChalleNGe Program.

C. Should additional funds become available after a budget shortfall, LOSFA shall restore students' grants in accordance with the priorities established in Paragraph B, above, until such funds are exhausted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:784 (April 2004).

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools

§1701. Eligibility of Graduates Based Upon the High School Attended

A. - A.4.b. …

B. Non-high school graduates who have earned a Louisiana High School Equivalency Diploma (GED) in lieu of a high school diploma are eligible to participate in the Leveraging Educational Assistance Partnership (LEAP) Grant Program and the Louisiana GO-Youth ChalleNGe Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated LR 24:642 (April 1998), amended LR 24:1911 (October 1998), LR 25:849 (May 1999), LR 26:68 (January 2000), LR 27:1862 (November 2001), LR 30:784 (April 2004).

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1901. Eligibility of Postsecondary Institutions to Participate

A. Undergraduate degree granting schools which are components of Louisiana public university medical centers and two- and four-year public colleges and universities are authorized to participate in the Tuition Opportunity Program for Students (TOPS), TOPS-TECH, Rockefeller State Wildlife Scholarship, Leveraging Educational Assistance Partnership (LEAP) Program and the GO-Youth ChalleNGe Program.

B. Regionally accredited private colleges and universities which are members of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU) are authorized to participate in TOPS (for both academic programs and programs for a vocational or technical education certificate or diploma or a non-academic undergraduate degree), TOPS-TECH, LEAP and the GO-Youth ChalleNGe Program. As of April 2000, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, New Orleans Theological Seminary, Our Lady of the Lake College, Our Lady of Holy Cross College, St. Joseph Seminary College, Tulane Medical Center, Tulane University and Xavier University.

C. Campuses of Louisiana Technical College are authorized to participate in TOPS, TOPS-TECH LEAP and the GO-Youth ChalleNGe Program.

D. Approved Louisiana proprietary and beauty schools are authorized to participate in LEAP only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26: 1998 (September 2000), LR 28:1864 (November 2001), LR 28:448 (March 2002), LR 30:784 (April 2004).

§1903. Responsibilities of Postsecondary Institutions

A. - A.2.h. …

B. Program Billing. Each term, institutions shall bill LASFAC for students who are recipients of a TOPS Award or a GO-Youth ChalleNGe Program Grant and who have enrolled at the institution in accordance with the following terms and conditions:

1. institutions may only bill for students who have been certified by LASFAC as eligible for a TOPS award or a GO-Youth ChalleNGe Program Grant; and

2. institutions will bill LASFAC based on their certification that the recipient of a TOPS Award or a GO-Youth ChalleNGe Program Grant is enrolled full-time, as defined in §301, at the end of the fourteenth class day for semester schools and the ninth class day for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the full summer session. Institutions shall not bill for students who are enrolled less than full-time at the end of the fourteenth class day for semester schools or the ninth class day for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the summer session, unless the student qualifies for payment for less than full-time enrollment as defined in §2103.C. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment after the fourteenth or ninth class day, as applicable, shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to the state in accordance with the institution's federal Title IV aid refund procedures; and

3. - 7. …

8. upon the school's certification that a recipient of a GO-Youth ChalleNGe Program Grant is enrolled full-time, institutions shall bill for and LASFAC will reimburse the institution for each such recipient as follows:

a. eligible public community colleges and Louisiana Technical College may bill for an amount up to the tuition for that institution, as defined in §301; and

b. regionally accredited independent colleges or universities in the state that are members of LAICU may bill up to an amount equal to the award amount authorized for TOPS-Tech students attending LAICU institutions during the Program Year (Non-academic Program).

9. Before applying a TOPS award to pay a student's tuition, institutions shall first apply the student's "out-of-pocket" payments, including student loans, toward tuition charges. In those cases when a student's tuition as defined in 26 U.S.C. 25A is paid from a source other than the TOPS award, the institution shall apply the TOPS award toward payment of expenses other than tuition which are described in the term "cost of attendance" as that term is defined in 20 U.S.C. 1087ll, as amended, for the purpose of qualifying the student or his parent or custodian for the federal income tax credits provided for under 26 U.S.C. 25A.

C. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998, 2002 (September 2000), LR 27:1864 (November 2001), LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004).

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. Initial Enrollment Requirement. Initially apply and enroll as a first-time freshman as defined in §301, unless granted an exception for cause by LASFAC, in an eligible college or university defined in §301. Initial enrollment requirements specific to TOPS are defined at §703A.4, for TOPS-TECH at §803.A and for Louisiana GO-Youth ChalleNGe Program at §1505.

B. ...

C. Less Than Full-Time Attendance. LASFAC will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards, the TOPS-TECH Award, the Rockefeller State Wildlife Scholarship and the Louisiana GO-Youth ChalleNGe Program, for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

1. requires less than full-time enrollment to complete the undergraduate degree; or

2. is enrolled in a degree program that defines *full-time* as less than 12 hours per semester or eight hours per quarter; or

3. requires less than full-time enrollment to complete requirements for a specified course of study or clinical program.

D. - D.3. …

E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement. A student who has been declared ineligible for TOPS, TOPS-Tech, TOPS Teacher, the Rockefeller State Wildlife Scholarship or the Louisiana GO-Youth ChalleNGe Program because of failure to meet the initial or continuous enrollment requirements may request reinstatement in that program based on one or more of the following exceptions:

E.1. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1017 (May 2000), LR 26:2004 (September 2000), LR 27:37 (January 2001), LR 27:1875 (October 2001), LR 27:1866 (November 2001), LR 289:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330, 2333 (November 2002), LR 29:126 (February 2003), LR 30:785 (April 2004).

George Badge Eldredge
General Counsel

0404#039

RULE

Tuition Trust Authority
Office of Student Financial Assistance

Bylaws (LAC 28:V.109)

The Louisiana Tuition Trust Authority is amending its START Savings Program rules (R.S. 17:3091 et seq.).

Title 28
EDUCATION
Part V. Student Financial Assistance? Higher Education Loan Program
Chapter 1. Student Financial Assistance Commission Bylaws

§109. Committees

A. Standing Committees. Unless and until otherwise decided by the vote of a simple majority of the membership of the authority, the standing committees of the authority shall consist of the following:

1. executive committee;
2. budget and finance committee;
3. investment committee;
4. planning committee;
5. rules committee; and
6. audit committee.

B. - J. ...

K. Rules Committee. The audit committee shall consist of not less than six members of the authority. Normally, to this committee shall be referred all matters involving audits of any program administered by the authority.

L. Special Committees

1. As the necessity therefor arises, the chairman may, with the concurrence of the authority, create special committees with such functions, powers and authority as may be delegated.

2. The chairman may appoint ad hoc committees for special assignments for limited periods of existence not to exceed the completion of the assigned task.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:1655 (December 1997), amended LR 27:190 (February 2001), LR 27:1221 (August 2001), LR 30:785 (April 2004).

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0404#040

RULE

Tuition Trust Authority
Office of Student Financial Assistance

Student Tuition and Revenue Trust (START Saving) Program? Education Savings Account
(LAC 28:VI.107, and Chapter 3)

The Louisiana Tuition Trust Authority has amended its START Savings Program Rules (R.S. 17:309 et seq.).

Title 28
EDUCATION
Part VI. Student Financial Assistance? Higher Education Savings? Tuition Trust Authority

Chapter 1. General Provisions

§107. Applicable Definitions

* * *

Beneficiary? the person named in the education savings *account owner's agreement* or the person named by the Authority when authorized to make such a designation by an account owner as classified under §303.A.5, as the individual entitled to apply the account balance, or portions thereof, toward payment of their Qualified Higher Education Expenses.

Beneficiary's Family? for purposes of §303.A.5, the *beneficiary's family* must be one of the following persons:

a. the *beneficiary's* parent(s) or court ordered custodian; or

b. a person who claims the *beneficiary* as a dependent on his or her federal income tax return for the previous year; or

c. a person who certifies that the *beneficiary* lives with him, that he provides more than 50 percent of the *beneficiary's* support for the previous year and that he was not required to file an income tax return for the previous year.

* * *

Trade Date? the date that a deposit to an investment option that includes *variable earnings* is assigned a value in units or the date a disbursement or refund from an investment option that includes *variable earnings* is assigned a value.

* * *

Variable Earning? that portion of funds in an *education savings account* invested in equities.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004).

Chapter 3. Education Savings Account

§301. Education Savings Accounts

A. An education savings account is established on behalf of a designated beneficiary to provide the funding necessary for the beneficiary to acquire an undergraduate certificate, associate degree, undergraduate degree, graduate degree or professional degree. Education savings accounts may offer investment options that provide either fixed earnings or variable earnings.

1. The account owner classified under §303.A.1, 2, 3 and 4 shall designate the beneficiary in the owner's agreement.

2. The account owner classified under §303.A.5 may designate the beneficiary in the owner's agreement, provided the beneficiary is not a member of the account owner's family, or authorize the LATTA to select a beneficiary for the account.

3. A beneficiary selected by the LATTA must meet the following criteria:

a. the beneficiary is a Louisiana resident;

b. the federal adjusted income of the beneficiary's family is less than $30,000 or the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);

c. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the authority or the Office of Student Financial Assistance;

d. demonstrate superior early academic preparation in the third grade by achieving a score on the Iowa Tests of Basic Skills, Stanford 9 Test or TerraNova Test that is in the top two quartiles; and

e. the guidelines provided by the account owner, if any; provided such guidelines are lawful.

4. Procedure for Selection (To be added at a later date.)

B. - C.1. ...

2. The account owner shall designate a beneficiary, except as provided in Paragraph A.2 above.

3. …

4. Transfer of account ownership is not permitted, except in the case of accounts classified under §303.A.1-4 in the event of the death of an account owner, who is a natural person or the dissolution of the account owner, who is a legal entity.

a. The account owner who is a natural person, other than a natural person classified as an account owner under §303.A.5, may designate a person who will become the substitute account owner in the event of the original account owner's death.

b. Eligibility for earnings enhancements will be based on the substitute account owner's classification at the time of the original account owner's death.

c. In the event of the death of an account owner who is a natural person, other than a natural person classified as an account owner under §303.A.5, and who has not named a substitute account owner, the account shall be terminated and the account shall be refunded to the beneficiary, if designated to receive the refund by the account owner, or the account owner's estate.

d. In the event of the dissolution of an account owner who is a legal entity classified as an account owner under §303.A.3 or 4, the beneficiary shall become the substitute account owner. If the account owner, who is a legal entity classified as an account owner under §303.A.3 or 4, is dissolved, the beneficiary designated to receive the refund has died, and there is no substitute beneficiary named, the refund shall be made to the beneficiary's estate.

e. In the event of the death or dissolution of an other person classified as an account owner under §303.A.5, the beneficiary shall become the substitute account owner, provided that, in the case of an account classified under §303.A.5, all the rights and restrictions provided in law and these rules regarding account owners classified under §303.A.5, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc., shall be applicable to the beneficiary that becomes the owner of an account established under §303.A.5. If an account owner classified under §303.A.5 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible educational institution by age 25, and no substitute beneficiary has been designated by the account owner, the authority shall designate a new beneficiary who must meet the requirements of §301.A.3 and §303.A.5.

5. Only the account owner or the beneficiary may be designated to receive refunds from the account owned by an account owner who is a natural person other than a natural person classified as an account owner under §303.A.5. In the event of the death of the account owner when the account owner is designated to receive the refund and there is no substitute account owner named, the refund shall be made to the account owner's estate.

D. - D.6. …

7. That an account whose owner is a legal entity or is classified under §303.A.5 cannot be terminated and the funds deposited in the account will not be refunded to the account owner.

8. That an account owner who is a legal entity or is classified under §303.A.5, can change the beneficiary of an account to one or more persons who are not members of the family of the beneficiary in accordance with §313.A.4.c, however, in such case:

a. …

b. the earnings enhancements and interest thereon will not be transferred to the new beneficiary. (Note that the deposit(s) will be eligible for earnings enhancement for the year of the deposit.);

c. the provisions of §301.A.2 shall apply to account owners classified in accordance with §305.A.5.

9. That in the event an account owner who is a legal entity classified as an account owner under §303.A.3 or 4 is dissolved, the beneficiary will become the owner of the account.

10. That in the event an other person classified as an account owner under §303.A.5 dies or is dissolved, the beneficiary will become the account owner, provided that, all the restriction provided in law and these rules regarding account owners classified under §303.A.5, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc. shall be applicable to the beneficiary that becomes the owner of an account established under §303.A.5. If an account owner classified under §303.A.5 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible college or university by age 25, and no substitute beneficiary has been designated by the account owner, the authority is authorized designate a new beneficiary who must meet the requirements of §301.A.3 and §303.A.5.

E. - G. …

H. Providing Personal Information

1. The account owner is required to disclose personal information in the owner's agreement, including:

a. in the case of an account owner classified under §303.A.5:

i. the social security number of the beneficiary's family and authorization from that person for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purpose of verifying federal adjusted gross income; and

ii. if applicable, proof that the beneficiary is a ward of the court; or

iii. if applicable, proof the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.).

2. By signing the owner's agreement, the account owner who is classified under §303.A.1 or 2 (does not include legal entities or other persons classified as account owners under §303.A.5) provides written authorization for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purposes of verifying federal adjusted gross income.

3. By signing the owner's agreement:

a. the account owner who is a natural person, other than a natural person classified as an account owner under §303.A.5, certifies that:

a.i. - b.vi. …

c. the natural person classified as an account owner under §303.A.5 certifies that:

i. the beneficiary is a Louisiana resident;

ii. the federal adjusted income of the beneficiary's family is less than $30,000 or the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);

iii. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the authority or the Office of Student Financial Assistance;

iv. the account owner acknowledges and agrees that once funds are deposited in a START account, neither the deposits nor the interest earned thereon can be refunded to the account owner; and

v. the information provided in the application is true and correct.

H.4 - J. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:1878 (November 2001), LR 28:450 (March 2002), LR 28:778 (April 2002), LR 28:2334 (November 2002), LR 30:786 (April 2004).

§303. Account Owner Classifications

A. - A.4. …

5. any other person or any government entity, and at the time of the initiation of the agreement:

a. the beneficiary is a resident of the state;

b. the federal adjusted income of the beneficiary's family is less than $30,000 or the beneficiary must be eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);

c. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the authority or the Office of Student Financial Assistance;

d. the deposits to the account are an irrevocable donation by the owner.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 27: 1879 (November 2001), LR 28:779 (April 2002), LR 28:2334 (November 2002), LR 30:787 (April 2004).

§305. Deposits to Education Savings Accounts

A. - C. …

D. Investment Options

1. The State Treasurer shall select fixed earnings and variable earnings investment options.

2. The authority shall furnish each account owner with information that discloses each of the investment options offered by the program.

3. The account owner shall select one or more of the investment options in completing the owner's agreement. If more than one option is selected, the account owner shall indicate the percentage of each deposit for each investment option and the percentages must total 100 percent.

4. Investment options and the percentage of each deposit to an option can be changed no more than once in any 12 month period.

5. Once a selection is made, all deposits shall be directed to the investment options selected and in the percentages designated.

E. Deposits

1. Deposits for investment options that are limited to fixed earnings will be considered to have been deposited on the date of receipt.

2. Deposits for investment options that include variable earnings will be assigned a trade date based on the method of deposit and the date of receipt.

a. Deposits by check will be assigned a trade date five days after the business day during which they were received.

b. Deposits made by electronic funds transfer will be assigned a trade date of one business day after the business day during which they were received.

3. Deposits received on weekends and holidays will be considered received on the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:788 (April 2004).

§307. Allocation of Earnings Enhancements

A. Earnings enhancements are state-appropriated funds allocated to an education savings account, on behalf of the beneficiary named in the account.

1.a. The earnings enhancements for account owners who are classified under §303.A.1 and 2 are calculated based upon the account owner's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for an earnings enhancement and the account owner's total annual deposits of principal.

b. The earnings enhancements for account owners who are classified under §303.A.5 are calculated based:

i. upon the beneficiary's family's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for an earnings enhancement and the account owner's total annual deposits of principal; or

ii. if the beneficiary is a ward of the court, using the highest earnings enhancement available and the account owner's total annual deposits of principal.

2. …

B. Providing Proof of Annual Federal Adjusted Gross Income

1.a. For account owners who are classified under §303.A.1 or 2 (does not include legal entities nor other persons classified as account owners under §303.A.5), the account owner's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for an earnings enhancement is used in computing the annual earnings enhancement allocation.

b. For account owners who are classified under §303.A.5, the beneficiary's family's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for an earnings enhancement is used in computing the annual earnings enhancement or proof that the beneficiary is a ward of the court.

2.a. To be eligible in any given year for an earnings enhancement in accordance with §307.D., the account owner of an education savings account classified under §303.A.1, 2 or 3 must:

i. authorize the LATTA to access the account owner's state tax return filed with the Louisiana Department of Revenue for the purpose of obtaining the account owner's federal adjusted gross income; or

ii provide the LATTA a copy of the account owner's federal or state income tax return filed for the year immediately preceding the year in which the beneficiary of the account is being considered for an earnings enhancement.

b. To be eligible in any given year for a earnings enhancement in accordance with §307.D., the account owner of an education savings account classified under §303.A.5 must:

i. provide authorization from the beneficiary's family for the LATTA to access the beneficiary's family's state tax return filed with the Louisiana Department of

Revenue for the purpose of obtaining the federal adjusted gross income of the beneficiary's family; or

ii provide the LATTA a copy of the beneficiary's family's federal or state income tax return filed for the year immediately preceding the year in which the beneficiary of the account is being considered for an earnings enhancement; or

iii. provide documentation establishing that the beneficiary is a ward of the court.

3.a. In completing the owner's agreement, account owner's who are classified under §303.A.1 or 2 (does not include legal entities or other persons classified as account owners under §303.A.5), authorize the LATTA to access their records with the Louisiana Department of Revenue for the purpose of verifying the account owners' federal adjusted gross income. In the event the account owner does not file tax information with the Louisiana Department of Revenue, they must provide the LATTA with:

i a copy of the form filed with the Internal Revenue Service; or

ii a statement as to why no income tax filing was required of the account owner.

b. In completing the owner's agreement, account owners who are classified under §303.A.5, provide authorization from the beneficiary's family for the LATTA to access their records with the Louisiana Department of Revenue for the purpose of verifying the beneficiary's family's federal adjusted gross income. In the event the beneficiary's family does not file tax information with the Louisiana Department of Revenue, the beneficiary's family must provide:

i a copy of the form filed with the Internal Revenue Service; or

ii a statement that the beneficiary lives with them, that they provide more than 50 percent of the beneficiary's support and an explanation as to the beneficiary's family was not required to file an income tax return; or

iii. provide documentation establishing that the beneficiary is a ward of the court.

B.4. - C.2. …

D. Earnings Enhancement Rates. The earnings enhancement rates applicable to an education savings account under §303.A.1, 2 and 5 are determined by the federal adjusted gross income of the account owner or the beneficiary's family, as applicable, according to the following schedule.

Reported Federal Adjusted Gross Income	Earnings Enhancement Rate*
0 to $29,999	14 percent
$30,000 to $44,999	12 percent
$45,000 to $59,999	9 percent
$60,000 to $74,999	6 percent
$75,000 to $99,999	4 percent
$100,000 and above	2 percent

*Rates may be reduced pro rata, to limit Earnings Enhancements to amounts appropriated by the Legislature.

E. - F. …

G. Restrictions on allocation of earnings enhancements to education savings accounts. The allocation of earnings enhancements is limited to education savings accounts which:

1. are not fully funded accounts (see §107); and

2. have an account owner who falls under one of the classifications described in §303.A.1, 2, 3 or 5.

H. - J.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:1263 (June 2000), LR 26:2263 (October 2000), LR 27:37 (January 2001) LR 27:1222 (August 2001), LR 27:1180 (November 2001), LR 28:779 (April 2002), LR 30:788 (April 2004).

§309. Disbursement of Account Funds for Payment of Qualified Higher Education Expenses of a Beneficiary

A. Request for Disbursement

1. For each term the account owner intends to fund the beneficiary's qualified higher education expenses, the account owner shall submit a request for disbursement.

2. The request for disbursement must include:

a. the START Account number;

b. the account owner's name, address, Social Security Number and signature (may be electronic);

c. the beneficiary's name, address, and Social Security Number;

d. the amount to be disbursed and to whom; and

e. the name and address of the eligible education institution.

3. The account owner may select the investment options from which the disbursement shall be made; provided that if no selection is made, the disbursement shall be made proportionally from each investment option in the account.

4. If there is more than one account with the same beneficiary, each account owner requesting a disbursement must complete a request for disbursement and the disbursements shall be made from each account, in turn, in the order the disbursement requests were received.

5. Disbursements from all accounts with the same beneficiary shall not exceed the qualified higher education expenses of the beneficiary for the school attended.

6. Disbursements may be made to the eligible education institution, account owner and/or beneficiary; however, for each disbursement, as a minimum, that portion of the disbursement representing earning enhancements and the interest thereon must be sent to the eligible educational institution in which the student is enrolled or intends to enroll.

7. Disbursements from investment options with variable earnings will be assigned a trade date of one business day after the business day of receipt.

B. Rate of Expenditure

1. As authorized by the account owner, the amount to be disbursed from an account shall be drawn from deposits (including earnings on deposits) and earnings enhancements (including earnings on earnings enhancements) in the same ratio as these funds bear to the total value of the account as of the date of the disbursement.

2. For an educational term, the account owner may not withdraw an amount in excess of the beneficiary's qualified higher education expenses for that term or the value of the account, whichever is less.

C. Payments to Eligible Educational Institutions

1. Upon the beneficiary's enrollment and the institution's receipt of a START disbursement, the institution may credit the student's account. Should the amount received exceed the amount owed to the institution, the institution shall disburse the balance to the beneficiary, unless the beneficiary directs otherwise.

D. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:716 (June 1997), amended LR 24:1272 (July 1998), LR 26:2265 (October 2000), LR 27:1881 (November 2001), LR 30:789 (April 2004).

§311. Termination and Refund of an Education Savings Account

A. …

B. Account Terminations

1. The account owner who is a natural person, other than a natural person classified as an account owner under §303.A.5, may terminate an account at any time.

2. - 5. ...

6. The account owner who is a legal entity or is classified under §303.A.5, may not terminate an account, however, the account owner who is a legal entity or is classified under §303.A.5 may designate a substitute beneficiary in accordance with §313.A.4.b.

C. Refunds

1. A partial refund of an account may only be made as described in §311.F.3.

2. ...

3. No refunds shall be made to an account owner who is a legal entity classified under §303.A.3 or 4. If an account owned by a legal entity classified as an account owner under §303.A.3 or 4 is terminated by LATTA or by the account owner in accordance with §311.E or F, the refund will be made to the beneficiary or to the beneficiary's estate if no substitute beneficiary has been designated by the account owner.

4. No refunds shall be paid to account owner classified under §303.A.5. If such an account is terminated by LATTA in accordance with §311.E, the beneficiary shall become the owner of the account, provided that, all the rights and restrictions provided in law and these rules regarding account owners classified under §303.A.5, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc. shall be applicable to the beneficiary that becomes the owner of such an account. If an account owner classified under §303.A.5 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible college or university by age 25, and no substitute beneficiary has been designated by the account owner, the authority shall designate a new beneficiary who must meet the requirements of §301.A.3 and §303.A.5.

5. Refunds from investment options with variable earnings will be assigned a trade date of one business day after the business day of receipt.

D. Designation of a Refund Recipient

1. In the owner's agreement, the account owner who is a natural person, except one who is classified under §303.A.5, may designate the beneficiary to receive refunds from the account.

2. Refunds of interest earnings will be reported as income to the individual receiving the refund for both federal and state tax purposes.

3. In the event the beneficiary receives any refund of principal and earnings from the account, the tax consequence must be determined by the recipient.

4. The beneficiary of an account owned by a legal entity classified as an account owner under §303.A.3 or 4 is automatically designated as the refund recipient.

5. Funds in an account classified under §303.A.5 shall not be refunded.

E. Involuntary Termination of an Account with Penalty

1. The LATTA may terminate an owner's agreement if it finds that the account owner or beneficiary provided *false or misleading information* (see §107).

2. If the LATTA terminates an owner's agreement under this Section, all interest earnings on principal deposits may be withheld and forfeited, with only principal being refunded.

3. An individual who obtains program benefits by providing false or misleading information will be prosecuted to the full extent of the law.

F. Voluntary Termination of an Account

1. Refunds shall be equal to the redemption value of the education savings account at the time of the refund, and shall be made to the person designated in the owner's agreement or by rule.

2. The person receiving the refund shall be responsible for any state or federal income tax that may be payable due to the refund.

3. Except for accounts classified in accordance with §305.A.5, accounts may be terminated and fully refunded or partially refunded at the request of the account owner for the following reasons:

a. the death of the beneficiary in which case the refund shall be equal to the redemption value of the account and shall be made to:

i. the account owner, if the account owner is a natural person; or

ii. the beneficiary's estate, if the account owner is a legal entity;

b. the disability of the beneficiary, in which case the refund shall be equal to the redemption value of the account and shall be made to:

i. the account owner or the beneficiary, as designated in the owner's agreement, if the account owner is a natural person; or

ii. the beneficiary, if the account owner is a legal entity;

c. the beneficiary receives a scholarship, waiver of tuition, or similar subvention that the LATTA determines cannot be converted into money by the beneficiary, to the extent the amount of the refund does not exceed the amount of the scholarship, waiver of tuition, or similar subvention awarded to the beneficiary. In such case, the refund shall be equal to the scholarship, waiver of tuition, or similar subvention that the LATTA determines cannot be converted

into money by the beneficiary of the account, or the redemption value, whichever is less, and shall be made to:

i. the account owner or the beneficiary, as designated in the owner's agreement, if the account owner is a natural person; or

ii. the beneficiary, if the account owner is a legal entity.

4. Refunds made under this §311.F.3 are currently exempt from additional federal taxes.

G. Effective Date of Account Termination. Account termination shall be effective at midnight on the business day on which the request for account termination and all supporting documents are received. Accounts will be credited with interest earned on principal deposits through the effective date of the closure of the account.

H. Refund Payments. Payment of refunds for voluntary termination under §311.F or partial refunds of accounts pursuant to §311.F.3 shall be made within 30 days of the date on which the account was terminated. The termination refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the last calendar year. Interest earned in excess of $3 during the calendar year of termination will be refunded on or about the forty-fifth day after the start of the next calendar year. Interest earned of $3 or less during the calendar year of termination will be forfeited to the Louisiana Education and Tuition Savings Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002), LR 30:790 (April 2004).

§313. Substitution, Assignment, and Transfer

A. - A.3. …

4. If the substitute beneficiary is not a member of the family of the previous beneficiary:

a. and the account owner is a natural person classified under §303.A.1-4, the account must be refunded to the account owner and a new account must be opened;

b. and the account owner is a legal entity classified under §303.A. 3 or 4, a new account shall be opened in the name of the new beneficiary; and

i. - ii. …

c. and the account owner is classified under §303.A. 5, a new account shall be opened in the name of the new beneficiary only if the beneficiary meets all the requirements of §303.A. 5; and

i. these transfers may be treated as refunds under federal and state tax laws in which case the account owner will be subject to any associated tax consequences; and

ii. the earnings enhancements and interest thereon will not be transferred to the new beneficiary; (Note that the deposit(s) will be eligible for earnings enhancement for the year of the deposit.)

iii. the provisions of §301.A.2 shall apply to account owners classified in accordance with §305.A.5.

B. - C.5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), repromulgated LR 26:2266 (October 2000), amended LR 27:1883 (November 2001), LR 28:780 (April 2002), LR 30:791 (April 2004).

§315. Miscellaneous Provisions

A. - H. …

I. No Investment Direction. No account owner or beneficiary of an education savings account may direct the investment of funds credited to an account, except to make an annual election among investment options that offer fixed earnings, variable earnings or both. Deposits will be invested on behalf of the START Savings Program by the State Treasurer.

J. - R. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23: 718 (June 1997), amended LR 24:1274 (July 1998), amended LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 30:791 (April 2004).

George Badge Eldredge
General Counsel

0404#041

RULE

Office of the Governor
Commission on Law Enforcement and Administration of Criminal Justice

Peace Officer POST Instructor Development Course
(LAC 22:III.4717)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice has amended rules and regulations relative to the training of peace officers. The Peace Officers Standards and Training Council approved the policy for its Instructor Development Course at its meeting on September 9, 2003.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part III. Commission on Law Enforcement and Administration of Criminal Justice
Subpart 4. Peace Officers
Chapter 47. Standards and Training

§4717. POST Instructor Development Course

A. Eligibility

1. Only full-time peace officers who have a minimum of two years full-time service are eligible to attend an Instructor Development Course (IDC).

2. Instructor Development Course (IDC) is offered to instructors assigned full-time at an accredited POST academy or for general peace officer instructors.

B. Course Requirements

1. Full-time employees of a POST accredited training academy must attend and successfully complete IDC within one year of his/her employment at that academy.

2. Individuals who possess FBI Instructor Development Certificates issued upon completion of the FBI National Academy need not attend this course. A certificate must be furnished as proof of completion.

C. Registration

1. Each agency is allowed to submit two names for consideration. On the registration form, the agency head should mark 1st Priority or 2nd Priority. If there are vacancies after the deadline, vacancies will be filled using the 2nd Priority names.

2. There is a registration deadline for each course offered. The registration form must be completed, signed by the agency head or academy director and transmitted to POST office before the announced deadline.

D. Attendance

1. Attendance each day of the course is mandatory. Class hours are 8 a.m. until 5 p.m., Monday through Friday. Casual attire is acceptable most days except for Thursday when the student will present a prepared lesson plan.

2. If student is unable to attend a course, the student must notify POST no later than the Friday before the class begins on Monday. If POST is not notified and the student does not attend the class, the student's department could lose the privilege of sending another student to IDC for an entire year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 30:791 (April 2004).

Michael A. Ranatza
Executive Director

0404#031

RULE

Office of the Governor
Used Motor Vehicle and Parts Commission

Licensing Used Motor Vehicle Dealers
(LAC 46:V.2901)

Editor's Note: Section 2901is being repromulgated to correct a typographical error. This Rule may be viewed in its entirety in the March 2004 edition of the *Louisiana Register* on pages 436-437.

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, has amended rules and regulations governing dealers to be licensed in accordance with R.S. 32:773, garage liability insurance policy in accordance with R.S. 32:774:I(1) and educational seminars in accordance with R.S. 32:774(B)(3)(b)(i)(ii)(iii)(iv).

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part V. Automotive Industry
Subpart 2. Used Motor Vehicle and Parts Commission
Chapter 29. Used Motor Vehicle Dealer
§2901. Dealers to be Licensed

A. ...

B. Dealers in new and used motor homes, new and used semi-trailers, new and used motorcycles, new and used all-terrain vehicles, new and used recreational trailers, new and used boat trailers, and new and used travel trailers, new and used boats, new and used boat motors, daily rentals not of current year or immediate prior year models that have been titled previously to an alternate purchaser, manufacturers and distributors and other types subject to certificate of title law and Title 32 and/or Vehicle Registration Tax Number under Title 47. All new and unused vehicle dealers and other dealers licensed by the Louisiana Used Motor Vehicle and Parts Commission are excluded from licensing by the Louisiana Used Motor Vehicle and Parts Commission.

C. - E. ...

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

HISTORICAL NOTE: Promulgated by 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 24:1682 (September 1998), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission LR 30:436 (March 2004), repromulgated LR 30:792 (April 2004).

John M. Torrance
Executive Director

0404#014

RULE

Department of Health and Hospitals
Board of Electrolysis Examiners

Electrologists Instructors Requirements
(LAC 46:XXXV.103, 105, 301, 503, 701, 707, 905, 909, 1301, 1303, 1305, 1307, 1309, 1313, and 1503)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 37:3051-3077, the Board of Electrolysis Examiners (hereinafter referred to as "Board") has amended the operating Rules and Regulations as follows.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXV. Electrologists
Chapter 1. General Provisions
§103. General Definitions

A. ...

Apprentice? an individual engaged in learning the theory and practice of electrology in an electrologist apprenticeship program.

Board? State Board of Electrolysis Examiners.

Electrologist? any person who for compensation practices electrolysis for the permanent removal of hair, except a physician licensed to practice medicine who performs electrolysis in his practice or a person who engages, on behalf of a manufacturer or distributor, solely in demonstrating the use of any machine or other article for the purpose of sale, without charge to the person who is the subject of the demonstration.

Electrologist Apprenticeship Program? an establishment which teaches or offers to teach the theory and practice of electrology and which teaches or offers to teach instructors the theory and practice of teaching electrology, without financial remuneration from the apprentice or the student instructor.

Electrologist Technician? an individual who for compensation practices electrolysis for the permanent removal of hair under the direct supervision of a licensed electrologist and who has completed a two hundred-hour course of instruction at an approved electrology school or electrologist apprenticeship program.

Electrology? the art and practice of removing hair from the normal skin of the body by the application of an electric current to the hair papilla by means of a needle or needles so as to cause growth inactivity of the hair papilla and thus permanently remove hair.

Electrolysis? the process by which hair is removed from the normal skin by the application of an electric current to the hair root by means of a needle or needles being inserted into the hair follicle, whether the process employs direct electric current or short wave alternating electric current.

School, School of Electrology, or Electrology School? an establishment which teaches or offers to teach students the theory and practice of electrology and which teaches or offers to teach student instructors the theory and practice of teaching electrology, for financial remuneration from the student, student instructor, or both.

Student? an individual engaged in learning the theory and practice of electrology at a school of electrology.

Student Instructor? an individual learning the theory and practice of teaching electrology in an electrology school or an electrologist apprenticeship program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:329 (April 1984), amended LR 11:534 (May 1985), repromulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 19:1144 (September 1993), amended LR 27:193 (February 2001), LR 30:792 (April 2004).

§105. Exceptions and Rights

A. - B. ...

C. A health history shall be completed on each patient prior to any treatment. No patient with a history of diabetes and no cardiac patient with a pacemaker shall be treated without the consent of a physician. Persons suspected of having a communicable disease shall not be treated without first having been examined by a physician. No electrologist, electrologist technician, instructor, apprentice, or student shall knowingly treat a person who is infected with impetigo, any contagious disease, skin malignancy, or any disease dangerous to the public.

D. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:330 (April 1984), amended LR 11:534 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 19:1144 (September 1993), LR 27:193 (February 2001), LR 30:793 (April 2004).

Chapter 3. Board Composition, Conflict Provision and Reimbursement

§301. Composition

A. The State Board of Electrolysis Examiners is created within the Department of Health and Hospitals. It shall be composed of five members, all to be appointed by the governor to serve at his pleasure. Four members shall be licensed electrologists who have been engaged in the practice of electrology for at least the five years prior to their appointment. Of these four, two members shall be appointed from a list of four names submitted to the governor by the Louisiana Electrologist Association and two members shall be appointed from a list of four names submitted to the governor by Regional Electrologists Association of Louisiana. One member shall be appointed from a list of three physicians licensed to practice in this state and recommended by the Louisiana State Medical Society. If the governor determines that the nominees of the Louisiana Electrologist Association, the Regional Electrologists Association of Louisiana, or of the Louisiana State Medical Society are not suitable, he may decline to appoint from the list submitted and shall call upon the associations or the society to nominate an additional list of persons. He may repeat such call until a list containing a qualified person or persons meeting his approval is submitted. If the Louisiana State Medical Society does not submit a list of physicians to the governor within 30 days of any such request, the governor may appoint an additional nominee of either the Louisiana Electrologist Association or the Regional Electrologists Association of Louisiana in lieu of the licensed physician. Members serving on the board shall remain in office until their successors are appointed and take office. Members of the board shall be residents of this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:330 (April 1984), amended LR 11:535 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 19:1144 (September 1993), LR 30:793 (April 2004).

Chapter 5. Organization of Board, Quorum, Meetings, Records

§503. Meetings

A. The board shall hold regular meetings at least four times each year for the purpose of examining applicants and any other time the board or its chairman deems necessary, at a time and place designated by the chairman. Special meetings may be called by the chairman upon giving at least 72 hours notice thereof by registered or certified mail to the post office address of each member of the board and of persons who previously have indicated that they have business before the board. Any board member who misses three consecutive meetings without just cause may be removed from the board by an affirmative vote of three board members, and replaced by the governor on the board's

initiation. All meetings of the board shall be conducted in accordance with *Roberts Rules of Order*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:330 (April 1984), repromulgated LR 11:535 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 30:793 (April 2004).

Chapter 7. General Powers and Duties of the Board

§701. Issuance of Licenses

A. The board shall be the sole and exclusive authority in the state to issue licenses to practice electrolysis and to administer the provisions of R.S. 37:3051 et seq. The board shall have authority to examine for, grant, deny, approve, revoke, suspend and renew the licenses of electrologists and shall review applications for licenses of electrologists at least four times each calendar year. It may conduct hearings on charges for the revocation or suspension of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:330 (April 1984), repromulgated LR 11:535 (May 1985), repromulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 19:1144 (September 1993), LR 30:794 (April 2004).

§707. Licenses to Apprenticeship Programs

A. ...

B. No apprenticeship program approved by the board may receive monetary compensation from an apprentice or student instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, 19:1144 (September 1993), LR 30:794 (April 2004).

Chapter 9. Licensure of Electrologists and Instructors

§905. Licensure of Instructor

A. - C.1. ...

2. has successfully completed the curriculum for instructor training in electrolysis in an instructor training program that maintains the standards established and approved by the board and is part of either an approved school of electrology or an approved apprenticeship program. Such curriculum shall be under the supervision of a licensed instructor of electrology, shall include a course of study and practice over a period of not less than four months and shall include 125 hours of teaching skills, 75 hours of facilitating/managing skills, and 150 hours of clinic-supervised practice teaching;

3. successfully achieves a minimum test score on an examination administered and approved by the board. The examination shall be given four times each calendar year at such time and place and under such supervision as the board determines and specifically at such other times as in the opinion of the board the number of applicants warrants. The board shall designate the date, time, and place of examination and give public notice thereof and, in addition, shall notify each person who has made application for examination to the board.

D. Within 10 days after each examination, the official in charge shall deliver the question and answer papers to the board. The board shall examine and rate the answers and shall transmit an official report to each applicant for license stating the rating of the candidate in each subject and whether or not the board approves the candidate for a license. If a candidate fails one or more parts of an examination, the candidate may take the parts which he has failed in a subsequent examination upon payment of a fifteen-dollar examination fee. If after two attempts the examination is not satisfactorily completed, the candidate thereafter shall be required to repeat and take the entire examination within one year of the date of the original examination.

E. An instructor training program may grant credit for the 125 hours of teaching skills and 75 hours of facilitating/managing skills to an individual who possesses a valid teaching certificate.

F. The board may provide by rule for granting credit for all or part of the 125 hours of teaching skills, the 75 hours of facilitating/managing skills, or any combination thereof for college-level courses in teaching skills and facilitating/managing skills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:331 (April 1984), repromulgated LR 11:536 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 27:194 (February 2001), LR 30:794 (April 2004).

§909. Examination Schedule

A. The examination shall be given at least four times each year at a time and place as is determined by the board. Should the number of applicants warrant, additional examinations may be scheduled at the discretion of the chairman and public notice shall be given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:331 (April 1984), repromulgated LR 11:536 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 19:1144 (September 1993), LR 30:794 (April 2004).

Chapter 13. Schools, Offices, Apprenticeship Programs; Apprenticeship Program Practitioners Premises

§1301. Requirements for Licensure of Schools of Electrolysis

A. - A.2. ...

3. a surety bond approved by the board in the amount of $1,000 per student, or a sum amount not to exceed $10,000 per school in favor of the state of Louisiana.

B. - E. ...

F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with RS. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:331 (April 1984), repromulgated LR 11:536 (May 1985),

amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 19:1144 (September 1993), LR 30:794 (April 2004).

§1303. Sanitary Requirements for Schools, Apprenticeship Programs, and Electrology Offices

A. - C. ...

D. Vinyl, latex, or any other protective medical examination gloves shall be used while attending electrology procedures. Hands shall be thoroughly washed with soap and water after removal of gloves. Unused gloves shall be used for each patient procedure and discarded after each use or if practitioner leaves patient's side or touches anything.

E. - K. ...

L. No electrologist, electrologist technician, instructor, apprentice or student in an apprenticeship program or school shall knowingly treat a person who is infected with impetigo, any contagious disease, skin malignancy, or any disease dangerous to the public.

M. No electrologist, electrologist technician, instructor, apprentice or student in an apprenticeship program or school shall treat a diabetic person without written authorization of the patient's treating physician.

N. All electrologists, electrologist technicians, instructors, apprentices and students, must place probe in holder of epilator when not in use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:331 (April 1984), amended LR 11:536 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 27:194 (February 2001), LR 30:795 (April 2004).

§1305. Additional Requirements for Schools

A. ...

B. Every school shall furnish to each student upon enrollment a true signed copy of the school contract and a copy of the school manual text covering the complete school curriculum as approved by the board.

C. ...

1. the name, address, date of enrollment, telephone number and specification of day or evening class of each student, recorded on the board's record of enrollment form;

2. ...

3. a signed copy of the student's permission to receive electrolysis treatment, and any restrictions thereof.

D. Every school shall provide each student with adequate storage space for the student's clothes and effects.

E. - K. ...

L. Repealed.

M. - N. ...

O. Repealed.

P. Repealed.

Q. - T. ...

U. Repealed.

V. A professional lamp will be focused on the treatment area at all times.

W. Repealed.

X. ...

Y. Smoking is prohibited by electrologists, electrologist technicians, instructors, students, lecturers or patients during treatment.

Z. All electrologists, electrologist technicians, instructors, and students shall wear appropriate clothing, with clean fingernails, clean stockings and clean uniform, or clean smock or clean laboratory jackets.

AA. - FF.11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:332 (April 1984), amended LR 11:537 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 30:795 (April 2004).

§1307. Additional Requirements for Offices

A. Every electrology office shall have a separate entrance away from residential rooms.

B. Separate toilet facilities must be made available without entering residential rooms.

C. Separate facilities for hand washing shall be provided separate from residential rooms.

D. - I.5. ...

J. Smoking is prohibited by electrologists, electrologist technicians, instructors, apprentices, students, lecturers or patients during treatment.

K. All electrologists, electrologist technicians, instructors, apprentices, and students shall wear appropriate clothing, with clean fingernails, and clean uniform, smock, or laboratory jacket.

L. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:333 (April 1984), repromulgated LR 11:537 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 30:795 (April 2004).

§1309. Regulations for Apprenticeship Programs

A. - B.3. ...

a. the owner shall provide proof of a surety bond approved by the board in the amount of $1,000 per student, or a sum not to exceed $10,000 per apprenticeship program in favor of the State of Louisiana.

B.3.b. - C.7. ...

D. Each supervisor of an electrologist apprentice shall furnish the apprentice with a signed copy of the contract and a copy of the text to be used.

E. ...

1. the name, current address, date of enrollment, telephone number, and specification day or evening class of each apprentice recorded on the board's record of enrollment form;

2. …

3. Repealed.

E.4. - K. ...

L. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners,

LR 10:333 (April 1984), amended LR 11:538 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 30:795 (April 2004).

§1313. Additional Requirements for Apprenticeship Programs

A. ...

B. Every apprenticeship program shall furnish to each apprentice upon enrollment a true signed copy of the apprentice contract and a copy of the apprenticeship program manual text covering the complete apprenticeship program.

C. ...

1. the name, current address, date of enrollment, telephone number, and specifications of day or evening classes of each apprentice, as recorded on the board's record of enrollment form;

2. ...

3. Repealed.

4. ...

D. Every apprenticeship program shall provide each apprentice with adequate storage space for the apprentice's clothes and effects.

E. - K. ...

L. Repealed.

M. - R. ...

S. Separate toilet facilities must be made without entering residential rooms.

T. Separate facilities for handwashing shall be provided on the premises of the office separate from residential facilities.

U. Every office of electrolysis shall comply with Louisiana statutes and ordinances and be subject to Public Health and Safety standards for treating patients.

V. - Z. ...

AA. Smoking is prohibited by electrologists, electrologist technicians, instructors, apprentices, students, lecturers, or patients during treatment.

BB. All electrologists, electrologist technicians, instructors, apprentices, and students shall wear appropriate clothing, with clean fingernails, clean stockings and clean uniform, or clean smock or clean laboratory jackets.

CC. - DD.11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:333 (April 1984), amended LR 11:538 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 30:796 (April 2004).

Chapter 15. License

§1503. Renewal of License

A. - B.2. ...

C. Failure to Register

1. When any electrologist, instructor, electrolysis school, or electrologist apprenticeship program licensed hereunder fails to register and pay the annual registration fee within 30 days after the registration fee becomes due, the license or certificate of such person, school, or electrologist apprenticeship program shall be revoked automatically at the expiration of 30 days after the registration was required, without further notice or hearing. However, any person, school, or electrologist apprenticeship program whose license or certificate is automatically revoked as provided herein may, within three years of the date of revocation, make application in writing to the board for the reinstatement of such license or certificate and, upon good cause being shown, the board in its discretion may reinstate such license or certificate upon payment of all past due renewal fees and the payment of an additional sum of $50. The board may require as a condition of reinstatement that the person complete all or some of the past continuing education requirements within 12 months of reinstatement of the license.

2. Any person, electrolysis school, or electrologist apprenticeship program who fails within three years after revocation of a license or certificate to make written application to the board for reinstatement must reapply to the board and pay all fees required under the provisions of the rules and regulations adopted pursuant thereto. Any electrologist, instructor, or electrologist technician who fails within three years after revocation to make written application for reinstatement must successfully complete a written and practical examination prior to reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:335 (April 1984), repromulgated LR 11:540 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 27:196 (February 2001), LR 30:796 (April 2004).

Cheri L. Miller
Chairperson

0404#011

RULE

Department of Health and Hospitals
Board of Veterinary Medicine

Fees; Prescribing and Dispensing Drugs
(LAC 46:LXXXV.501 and 705)

The Louisiana Board of Veterinary Medicine amends and adopts LAC 46:LXXXV.501 and 705 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1511 et seq. This text is amended to establish the current fee schedule and to establish Rules regarding prescribing and/or dispensing capture drugs for deer farmer utilization. The Rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The amendments to the Rules are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXXV. Veterinarians

Chapter 5. Fees

§501. Fees

A. The board hereby adopts and establishes the following fees.

Licenses	
Annual renewal-active license	$225
Annual renewal-inactive license	$100
Annual renewal-faculty license	$100
Duplicate license	$ 25
Original license fee	$225
Temporary license	$100
Exams	
Clinical Competency Test (CCT)	$190
National Board Exam (NBE)	$215
State board examination	$175
Exam and/or License Application	
Application fee	$ 75

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 6:71 (February 1980), amended by Department of Health and Hospitals, Board of Veterinary Medicine, LR 18:380 (April 1992), LR 19:1326 (October 1993), LR 23:963 (August 1997), LR 25:2408 (December 1999), LR 30:796 (April 2004).

Chapter 7. Veterinary Practice

§705. Prescribing and Dispensing Drugs

A. - N.6 ...

O. A veterinarian licensed by the board may lawfully prescribe and/or dispense Rompun (legend drug), Telazol (controlled substance), and/or Ketamine (controlled substance), or a mix of these drugs, to a deer farmer licensed by, and in good standing with, the Department of Agriculture and Forestry only under the following terms and conditions:

1. For the purpose of this Section, *deer*, *deer farmer*, and *deer farm operation* shall apply to cervids only which are further exclusively defined as *imported exotic deer and antelope*, *elk* and *farm raised white tail deer* as defined in R.S. 3:3101 et seq.

2. The veterinary-client-patient relationship must first be established, and thereafter maintained, as defined in §700 and Paragraph 705.A.2.

3. The veterinarian shall be familiar with the deer farm operation at issue and have general knowledge of the species and numbers of animals on the premises.

4. The licensed deer farmer shall personally maintain a perpetual written inventory of the drugs referenced in this Section, including the following information:

a. name of drug and date purchased;

b. name and address of veterinarian the drug was purchased from and a written receipt;

c. amount purchased;

d. date of each use;

e. amount used for each administration;

f. reason for each administration;

g. the identity of each animal by electronic device, tattoo and/or tag upon capture; and

h. the date and amount of drug wasted, spilled or lost.

5. The licensed deer farmer shall comply with all state and federal laws regarding the storage of the drugs, and the perpetual written inventory, in a double locked container when not in use.

6. The licensed deer farmer who obtains the drugs from the veterinarian shall be the only person allowed to use or administer the drugs on his deer and for capture purposes only.

7. Prior to obtaining the referenced drugs, the licensed deer farmer must successfully complete a board approved chemical capture course. The veterinarian prescribing and/or dispensing the drugs must initially obtain and maintain in his records a copy of the deer farmer's current license issued by the Department of Agriculture and Forestry and a copy of the licensed deer farmer's current certificate verifying successful completion of the chemical capture course approved by the board. The licensed deer farmer must successfully complete a board approved chemical capture course every three consecutive calendar years.

8. The veterinarian may only lawfully prescribe and/or dispense the drugs referenced herein in minimal quantities based on the size of the herd at issue and the history of prior use, if applicable, of the drug or drugs requested by the licensed deer farmer.

9. Upon requesting a refill of, or an additional permissible amount of a drug, the licensed deer farmer shall provide to the prescribing and/or dispensing veterinarian a copy of the deer farmer's current license issued by the Department of Agriculture and Forestry, a copy of the current certificate verifying successful completion within the last three consecutive calendar years of the chemical capture course approved by the board, and a copy of the perpetual written inventory, as well as return all empty or sealed containers of the drugs in the case of a refill. The copy of the deer farmer's current license, the copy of the current certificate verifying successful completion within the last three consecutive calendar years of the board approved chemical capture course, the copy of the perpetual written inventory, and all empty or sealed containers shall be kept by the veterinarian for his record keeping purposes as required in §701.

10. Any prescribing and/or dispensing veterinarian who has reason to believe that a licensed deer farmer is not in compliance with the items and conditions of this Section, or is otherwise abusing the privileges established by this Section, shall notify, in writing, the board and the Department of Agriculture and Forestry immediately.

11. The prescribing and/or dispensing veterinarian shall comply with all state and federal laws and/or regulations regarding the prescribing and/or dispensing of Rompun (legend drug), Telazol (controlled substance), Ketamine (controlled substance), or a mix of these drugs, to a deer farmer licensed by, and in good standing with, the Department of Agriculture and Forestry.

12. Any prescribing and/or dispensing veterinarian who violates, or otherwise fails to comply with this Section, or any part thereof, including all state and federal laws and/or regulations, shall be guilty of unprofessional conduct within the meaning of R.S. 37:1526(14).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 6:71 (February 1980), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:225 (March 1990), LR 19:1329 (October 1993), LR 20:1381 (December 1994), LR 23:1686 (December 1997), LR 24:1932 (October 1998), LR

25:1249 (July 1999), LR 25:1627 (September 1999), LR 27:51 (January 2001), LR 30:797 (April 2004).

Wendy D. Parrish
Administrative Director

0404#037

RULE

Department of Health and Hospitals
Licensed Professional Vocational Rehabilitation Counselors Board of Examiners

Licensing and Advisory Opinions
(LAC 46:LXXXVI.703 and Chapter 18)

In accordance with the provisions of the Administrative Procedure Act. R.S. 49:950 et seq., the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, pursuant to the authority vested in it by R.S. 37:3445, hereby promulgates the following Rule amending the Professional and Occupational Standards pertaining to Vocational Rehabilitation Counselors in order to provide for the requirements for licensing, and to add Chapter 18 to provide for advisory ethics opinions.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXXVI. Vocational Rehabilitation Counselors
Chapter 7. Requirements for Licensure and Renewal of License
§703. Requirements

A. - A.4. ...

5. has received a master's degree in vocational rehabilitation counseling or related field and two years of experience under the direct supervision of a licensed vocational rehabilitation counselor. Such two year period of supervision must be completed within three years of the date the written proposal for such supervision is submitted to the board in accordance with §703.B.15. An applicant may subtract one year of the required professional experience for successfully completing Ph.D. requirements in a rehabilitation counseling program acceptable to the board. In order to meet the requirements of licensure, one must have a degree in vocational rehabilitation counseling or an approved related degree as listed in Section A below.

Section A
Clinical or Counseling Psychology
Professional Guidance and Counseling
Rehabilitation Studies (O.T. and P.T. excluded)
Special Education (as determined by the board)

a. The board will consider as a feasible alternative to a vocational rehabilitation degree, a related degree as listed in Section A which includes 42 hours of qualifying courses from an accredited college or university which meet the academic and training content established by the board and listed in Section B below. Both Section A and Section B are at the discretion of the board.

Section B	Hours
Orientation of Vocational Rehabilitation	3
Statistics	3
Medical and/or Psycho-Social Terminology of Disabilities Relative to Vocational Performance	3
Psychological and Social Effects of Disabilities	3
Tests and Measurements	3
Occupational Information and/or Job Placement and Job Development	3
Analysis of the Individual	3
Theories of Personality	3
Theories and Techniques of Counseling	6
Demonstrations and Practice of Counseling	3
Field Work or Practicums	9-12
Psychiatric Disorders and/or Substance Abuse	3
Vocational Analysis or Assessment of Persons with Disabilities	3
Introduction to Psychology	3
Abnormal Psychology	3
Introduction to Sociology	3
Developmental Psychology (Adult or Adolescent)	3
Ethics of Counseling	3
	66

b. A candidate for licensure must have 42 of the 66 hours enumerated, completing each course with a "C" or better. Any substitutions of similar course work will be limited and at the discretion of the board. As of July 20, 1996, anyone possessing an unrelated degree, not specific in the above text, will not be accepted even if they pursue additional course work. Should they obtain an additional degree in the related areas as specified in Section A above, this will be considered.

6. The board shall issue a license to each applicant who files an application upon a form designated by the board and in such a manner as the board prescribes, accompanied by such fee required by R.S. 37:3447 and who furnishes satisfactory evidence to the board that he has met the requirements of Paragraphs A.1 through A.4 and has a bachelor's degree in vocational rehabilitation counseling or related field as defined in Paragraph 703.A.5 and five years of work experience working under the direct supervision of a licensed vocational rehabilitation counselor which period of supervision began prior to September 1, 2004. Such five year period of supervision must be completed within six years of the date the written proposal for such supervision is submitted to the board in accordance with Paragraph 703.B.15. Except as provided in this Paragraph 703.A.6, after September 1, 2009 no license shall be issued to any applicant not meeting the requirements of Paragraphs 703. A. 1.-5.

B. - B.15.c. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 19:1570 (December 1993), LR 22:582 (July 1996), LR 30:798 (April 2004).

Chapter 18. Guidelines for Requesting Advisory Opinions from LLPVRC's Ethics Committee

§1800. General

A. Consistent with the intent of the Louisiana Licensed Professional Vocational Rehabilitation Counselors (LLPVRC) Code of Professional Ethics for Licensed Rehabilitation Counselors, the LLPVRC Ethics Committee recommends that licensed rehabilitation counselors who are considering seeking advisory opinions first consult with other rehabilitation counselors and colleagues who are knowledgeable about ethics in order to attempt to resolve questions that may easily be addressed by other knowledgeable parties. If these attempts do not result in resolution of the matter, individuals may request advisory opinions from the LLPVRC Ethics Committee.

B. The committee provides advisory opinions on selected situations having ethical implications. These advisory opinions are provided as a general educational service and are rendered in response to limited and unverified information provided to the committee. Therefore, it should not be construed as direct advice regarding the unique or specific ethical or legal action recommendations that should be followed regarding the issues raised. The considerations described by the committee's advisory opinion should be regarded only as general educational assistance and not as specific direction in any particular instance.

C. Requests should not be filed if there is reason to believe that a violation of the code has occurred. Those attempting to determine if alleged behavior violates the code may receive a response to a request for an advisory opinion that may later appear to contradict a ruling made if a complaint is actually filed. This possible incongruity might be due to the fact that advisory opinions do not allow for full disclosure of all available information in the matter.

D. Information presented in a request for an advisory opinion and the committee's response to that ruling may be presented for educational purposes to other parties in a sanitized format.

E. LLPVRC's Ethics Committee meets four times per year. Requests received will be scheduled for review at the next scheduled meeting of the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3445.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 30:799 (April 2004).

§1801. Requesting an Advisory Opinion

A. Requests should be clear and concise and should include both the scenario and the requestor's opinion as to the standard(s) in the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors that relate to the matter as well as the requestor's interpretation of how to apply the standard(s) to the scenario. Further, if the requestor is a LRC, the request should advise as to the results of consultation with other rehabilitation counselors and colleagues.

B. Requests should be sent in writing to Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, P.O. Box 41594, Baton Rouge, LA 70835-1594, Attn: Ethics Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478(I).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 30:799 (April 2004).

Carla Seyler
Chairperson

0404#029

RULE

Department of Health and Hospitals
Licensed Professional Vocational Rehabilitation Counselors Board of Examiners

Licensing Fees
(LAC 46:LXXXVI.901)

In accordance with the provisions of the Administrative Procedure Act. R.S. 49:950 et seq., the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners pursuant to the authority vested in it by R.S. 37:3445 promulgates the following Rule amending the Professional and Occupational Standards pertaining to Vocational Rehabilitation Counselors in order to provide for fees to be charged for licensing.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXXVI. Vocational Rehabilitation Counselors

Chapter 9. Fees

§901. General

A. The board shall collect the following fees.

1.	Application, license and seal	$ 200
2.	Renewal of license	$ 100
3.	Written Examination	$ 100
4.	Reissuance for lost or destroyed license	$ 50

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 30:799 (April 2004).

Carla Seyler
Chairperson

0404#030

RULE

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

Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT)? Early Intervention Services for Infants and Toddlers with Disabilities (LAC 50:XV.Chapter 81)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XV.Chapter 81 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes early intervention services for infants and toddlers with disabilities under the Medicaid Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program in conjunction with the transfer of Part C of the Individuals with Disabilities Education Act.

Title 50
PUBLIC HEALTH? MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment
Chapter 81. Early Intervention Services
§8101. Reserved.
§8103. Recipient Qualifications

A. In order to qualify for Medicaid covered early intervention services, an individual must meet the following qualifications:

1. be a Medicaid eligible infant or toddler age birth to age 3; and
2. be enrolled to participate in the Part C Program.

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 30:800 (April 2004).

§8105. Covered Services

A. Medicaid covered early intervention services shall be limited to the following services:

1. physical therapy;
2. occupational therapy;
3. speech therapy;
4. audiology services;
5. psychological services; and
6. targeted case management (family service coordination).

B. Psychological services include diagnosis and psychological counseling/therapy for the child and his/her family.

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 30:800 (April 2004).

§8107. Provider Participation

A. Provider participation shall be the Title V agency, the lead agency responsible for the administration of the provisions of Part C of the Individuals with Disabilities Education Act in Louisiana.

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 30:800 (April 2004).

§8109. Reimbursement

A. The reimbursement methodology for Medicaid covered early intervention services shall be a negotiated rate based on the cost for the provision of services in accordance with the terms of the intra-agency agreement between the Medicaid Program and the Title V agency.

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 30:800 (April 204).

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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0404#094

RULE

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

Early Periodic Screening, Diagnosis and Treatment Program (EPSDT)? KidMed Services (LAC 50:XV.6705)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby amends LAC 50:XV.6705 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends current Rules to clarify the billing procedures for KidMed services in order to conform to HIPAA compliant standardized procedure codes and also amends the reimbursement rates to equalize fees for all providers of EPSDT consultation services.

Title 50
PUBLIC HEALTH? MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment
Chapter 67. KIDMED
§6705. Reimbursement

A. …

B. Effective October 1, 2003, reimbursement for EPSDT consultations performed by KIDMED providers and physicians is set at $13.71.

C. Timely Filing. KIDMED medical screening claims must be submitted within 60 calendar days of the date of

service in order to be processed for reimbursement to the provider. Claims not received within the timely filing deadline may be denied.

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 29:175 (February 2003), amended LR 30:800 (April 2004).

Frederick P. Cerise, M.D., M.P.H.
Secretary

0404#095

RULE

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

Medicaid Estate Recovery Program
(LAC 50:I.Chapter 81)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, adopts LAC 50:I.Chapter 81 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, repeals the May 20, 1996 estate recovery Rule and adopts the following provisions. The bureau shall seek recovery of Medicaid payments for long term care facility services, home and community-based services, and related hospital and prescription drug services from the estate of an individual who was 55 years of age or older when such services were received.

Title 50
PUBLIC HEALTH? MEDICAL ASSISTANCE
Part I. Administration
Subpart 9. Recovery

Chapter 81. Estate Recovery

§8101. Definitions

Cost Effectiveness? the process whereby the Medicaid agency balances and weighs that which it may reasonably expect to recover against the time and expense of recovery. Initiating estate recovery will be deemed to be cost effective when the amount reasonably expected to be recovered exceeds the cost of recovery and is greater than $1000.

Estate? the gross estate of the deceased as determined by Louisiana succession law and any interest in any property, whether movable or immovable, corporeal or incorporeal that the recipient had 36 months prior to his death.

Heir? a descendant in the first degree.

Homestead? a tract of land or two or more tracts of land with a residence on one tract and a field, pasture, or garden on the other tract or tracts, not exceeding 160 acres; rural or urban buildings and appurtenances owned and occupied by the decedent; or a residence, including a mobile home, owned and occupied by the decedent; or a residence regardless of whether the homeowner owns the land upon which the home or mobile home is sited. This same homestead shall be the primary residence which served as a bona fide home and which was occupied by the recipient immediately prior to the recipient's admission to a long term care facility or when the recipient began receiving home and community-based services.

Undue Hardship? an undue hardship shall exist when initiating estate recovery would result in placing an unreasonable burden on an heir; and if an heir's family income is 300 percent or less of the U.S. Department of Health and Human Services Federal Poverty Level Guidelines as published annually in the *Federal Register*. An undue hardship may exist when:

1. the estate is the sole income producing asset of an heir and income from the estate is limited;

2. recovery would result in an heir becoming eligible to receive public assistance, including but not limited to Medicaid; or

3. any other compelling circumstances that would result in placing an unreasonable financial burden on an heir.

NOTE: An *undue hardship* does not exist if the circumstances giving rise to the hardship were created by or are the result of *estate* planning methods under which assets were sheltered or divested in order to avoid *estate* recovery. It is the obligation of the *heirs* to prove *undue hardship* by a preponderance of the evidence.

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 30:801 (April 2004).

§8103. General Provisions

A. Medicaid estate recovery is not a condition of eligibility. The applicant/recipient shall be informed at the time of application/redetermination that federal law and regulations mandate estate recovery action by the states and that medical assistance claims paid by the Bureau of Health Services Financing may be subject to estate recovery.

B. Recovery Limits. Recovery can only be made after the death of the recipient's surviving spouse, if any, and only at the time when the recipient has no surviving child under age 21, or a child who is blind or disabled as defined in Section 1614 of the Social Security Act.

C. Recovery Adjustments

1. Recovery may be waived in cases in which it is not cost-effective for the state to recover from the recipient's estate.

2. Recovery may be reduced in consideration of reasonable and necessary documented expenses incurred by the decedent's heirs to maintain the homestead during the period in which the recipient was in a long term care facility or received home and community-based services, if the homestead is part of the estate.

D. Recovery Notice

1. The bureau will seek recovery for medical assistance from the decedent's estate. The family or heirs will be given advance notice of the proposed action and the time frame in which they have the opportunity to apply for an undue hardship waiver.

2. The notice will be served on the executor, legally authorized representative or succession attorney of the decedent's estate. If there is no executor, legally authorized representative or succession attorney, the notice will be sent to the family or the heirs. The notice shall specify the following information:

a. the deceased recipient's name, Social Security number and Medicaid identification number;

b. the action the state intends to take;

c. the reason for the action;

d. the dates of services associated with the recovery action and the amount of the department's claim, i.e., amount to be recovered against the recipient's estate;

e. the right to and procedure for applying for a hardship waiver;

f. the heirs' right to a hearing;

g. the method by which the heirs may obtain a hearing; and

h. the time periods involved in requesting a hearing or in exercising any procedural requirements under the Medicaid Estate Recovery Program.

3. The notice will request that copies of all succession pleadings filed in connection with the succession of the decedent, including any judgment(s) of possession be provided to the bureau.

a. In the event no succession has been judicially opened, the bureau is to be advised as to when such documents will be available and/or when the succession is expected to be opened.

E. Recovery Privilege. The claim of the Department of Health and Hospitals? Medicaid Program shall have a priority equivalent to an expense of last illness as prescribed in Civil Code Article 3252 et seq.

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 30:801 (April 2004).

§8105. Administrative Review

A. Administrative Review of Agency Decision. Any aggrieved party may request that the agency review and reconsider any or all aspects of the particular recovery matter in which it is involved. This request must be made in writing within 20 days of receipt of the certified notice of the agency's claim for recovery. If such a request is timely made, the agency shall review the matter and shall review and consider any facts or documentation presented or forwarded in connection with the matter.

B. In addition to the provision in Subsection A above, any aggrieved party shall have the administrative appeal rights available pursuant to the Administrative Procedure Act.

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 30:802 (April 2004).

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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0404#093

RULE

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

Mental Health Rehabilitation Accreditation
(LAC 50:XV.705)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XV.705 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the July 20, 1998 Rule to revise provisions governing provider participation and the accreditation of mental health rehabilitation agencies.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 1. Mental Health Rehabilitation
Chapter 7. Providers
Subchapter A. Eligibility and Certification

§705. Accreditation

A. Currently enrolled and prospective providers of mental health rehabilitation services shall be accredited by a national accreditation organization. The department shall only accept accreditation from the following national organizations for the purposes of enrolling a provider into the Mental Health Rehabilitation (MHR) Program:

1. the Council on Accreditation (COA);

2. the Commission on Accreditation of Rehabilitation Facilities (CARF); or

3. the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

B. By July 1, 2004, all current providers shall provide the department with written documentation that identifies which national accreditation organization will be pursued. Current providers shall provide documentation of accreditation prior to March 31, 2006 as a condition of ongoing enrollment as an MHR provider.

C. Prospective providers shall meet the established provider participation requirements. In addition, prospective providers shall be required to submit proof of a request for accreditation from a national accreditation organization within six months of enrollment in the MHR program and must be fully accredited within 24 months of submitting the application for enrollment. Providers that do not submit such proof or are not accredited within 24 months shall be immediately terminated from the MHR program.

D. All enrolled providers of mental health rehabilitation services shall maintain accreditation from one of the national organizations listed in Paragraphs A.1-3 above. Denial or loss of accreditation status, or any negative change in accreditation status shall be reported to the department by the provider. The provider shall provide written notification

to the department within five working days of receiving said notice from the national accreditation organization. The written notification shall include information on the provider's denial or loss of accreditation status, or any negative change in accreditation status, the steps and timeframes, if applicable, the accreditation organization is requiring from that provider to maintain accreditation.

E. Denial or loss of accreditation status, any negative change in accreditation status and/or failure to notify the department of said denial or loss of accreditation status, or any negative change in accreditation status may result in sanctions to the mental health rehabilitation agency.

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 30:802 (April 2004).

Frederick P. Cerise, MD, MPH
Secretary

0404#090

RULE

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

Private Intermediate Care Facilities for the Mentally Retarded? Inventory for Client and Agency Planning (ICAP)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates 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 Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing shall use the Inventory for Client and Agency Planning (ICAP) to set individualized reimbursement rates for Intermediate Care Facilities for the Mentally Retarded (ICF-MR) residents. All ICF-MR facilities shall complete and submit an ICAP and a "Louisiana Level of Need" (LA LONS) on an annual basis for all individuals in the facilities. Completion of an annual ICAP and LA LONS shall be included in the annual client evaluation process.

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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0404#096

RULE

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

Private Intermediate Care Facilities for the Mentally Retarded? Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates 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 and as directed by the 2003-2004 General Appropriation Act, which states, "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to, pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement paid to private intermediate care facilities for the mentally retarded. In state fiscal year 2003-2004 only, the reimbursement shall be 98.8 percent (a 1.2 percent reduction) of the per diem rates in effect on September 30, 2003 and for subsequent years, 99.2 percent (a .8 percent reduction) of the per diem rates in effect on September 30, 2003.

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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0404#092

RULE

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

Private Nursing Facilities
Reimbursement Reduction
(LAC 50:VII.1306)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted LAC 50:VII.1306 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2003-2004

General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to, pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part VII. Long Term Care Services
Subpart I. Nursing Facilities
Chapter 13. Reimbursement
§1306. Reimbursement Adjustment

A. Effective for dates of service on or after January 1, 2004, for state fiscal year 2003-2004 only, each private nursing facility's per diem case mix adjusted rate shall be reduced by $0.67.

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 30:804 (April 2004).

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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0404#091

RULE

Department of Revenue
Policy Services Division

Books of the Corporation
(LAC 61:I.320)

Under the authority of R.S. 47:604, R.S. 47:605 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, has adopted LAC 61:I.320 to define "books of the corporation" relative to the computation of the corporation franchise tax.

This regulation will provide the definition of "books of the corporation" by formally adopting the federal provisions set forth in Internal Revenue Service regulations section 1.56-1(c). The "books of the corporation" are not defined in prior or current statutes and regulations. Previously, the department has informally applied these federal provisions to determine the "books of the corporation" and prioritize records to be used in the calculation of the corporation franchise tax.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 3. Corporation Franchise Tax
§320. Books of the Corporation

A. Generally the "books of the corporation" are financial statements that will include an income statement, a balance sheet (listing assets, liabilities, and owners equity including changes thereto), and other appropriate information. The following may be considered applicable financial statements.

1. Statement required to be filed with the Securities and Exchange Commission (SEC). A financial statement that is required to be filed with the Securities and Exchange Commission.

2.a. Certified audited financial statement. A certified audited financial statement that is used for credit purposes, for reporting to shareholders or for any other substantial non-tax purpose. Such a statement must be accompanied by the report of an independent (as defined in the American Institute of Certified Public Accountants Professional Standards, Code of Professional Conduct, Rule 101 and its interpretations and rulings) certified public accountant or, in the case of a foreign corporation, a similarly qualified and independent professional who is licensed in any foreign country. A financial statement is "certified audited" for purposes of this Section if it is:

i. certified to be fairly presented (an unqualified or "clean" opinion);

ii. subject to a qualified opinion that such financial statement is fairly presented subject to a concern about a contingency (a qualified "subject to" opinion);

iii. subject to a qualified opinion that such financial statement is fairly presented, except for a method of accounting with which the accountant disagrees (a qualified "except for" opinion); or

iv. subject to an adverse opinion, but only if the accountant discloses the amount of the disagreement with the statement.

b. Any other statement or report, such as a review statement or a compilation report that is not subject to a full audit is not a certified audit statement.

3. A financial statement provided to a government regulator. A financial statement that is required to be provided to the federal government, or any agency thereof (other than the Securities and Exchange Commission), a state government or agency thereof, or a political subdivision of a state or agency thereof. Except as otherwise provided herein, an income tax return, franchise tax return or other tax return prepared solely for the purpose of determining any tax liability that is filed with a federal, state or local government or agency cannot be an applicable financial statement.

4. Other financial statements. A financial statement that is used for credit purposes, for reporting to shareholders, or for any other substantial non-tax purpose, even though

such financial statement is not described in Paragraphs A.1-3 of this Section.

B. Priority Among Statements

1. In general, if a taxpayer has more than one financial statement described in Paragraphs A.1-4 of this Section, the taxpayer's applicable financial statement is the statement with the highest priority.

a. Priority is determined in the following order:

i. a financial statement described in Paragraph A.1 of this Section;

ii. a certified audited statement described in Paragraph A.2 of this Section;

iii. a financial statement provided to a government regulator described in Paragraph A.3 of this Section;

iv. any other financial statement described in Paragraph A.4 of this Section.

b. For example, Corporation A, which uses a calendar year for both financial accounting and tax purposes, prepares a financial statement for calendar year 2003 that is provided to a state regulator and an unaudited financial statement that is provided to A's creditors. The statement provided to the state regulator is A's financial statement with the highest priority and thus is A's financial statement.

2. Special priority rules for use of certified audit financial statements and other financial statements.

a. In the case of financial statements described in Paragraphs A.2 and A.4 of this Section, within each of these categories the taxpayer's applicable financial statement is determined according to the following priority:

i. a statement used for credit purposes;

ii. a statement used for disclosure to shareholders; and

iii. any other statement used for other substantial non-tax purposes.

b. For example, Corporation B uses a calendar year for both financial accounting and tax purposes. B prepares a financial statement for 2003 that it uses for credit purposes and prepares another financial statement for calendar year 2003 that it uses for disclosure to shareholders. Both financial statements are unaudited. The statement used for credit purposes is B's financial statement with the highest priority and thus is B's applicable financial statement.

3. Priority among financial statements provided a government regulator. In the case of two or more financial statements described in Paragraph A.3 of this Section that are of equal priority, the taxpayer's applicable financial statement is determined according to the following priority:

a. a statement required to be provided to the federal government or any of its agencies;

b. a statement required to be provided to a state government or any of its agencies; and

c. a statement required to be provided to any subdivision of a state or any agency of a subdivision.

C. Whenever more than one entity, for franchise tax purposes, is included in a corporation's books, as herein defined, separate books shall be constructed for each entity doing business in Louisiana. These books shall be constructed following the same principles and methods as were employed when constructing the original books.

D. Nothing in this regulation shall restrict the secretary's authority to revise the books of the corporation as needed for the purpose of ascertaining the correct franchise tax liability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:604, R.S. 47:605 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 30:804 (April 2004).

Cynthia Bridges
Secretary

0404#098

RULE

Department of Transportation and Development
Office of Highways/Engineering

Design Standards (LAC 70:I.Chapter 9)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development hereby adopts Chapter 9 of Title 70 entitled "Design Standards for Freeways, Arterial, Collector and Local Highways Under the Jurisdiction of Political Subdivisions and Not in the State-Maintained System," in accordance with R.S. 48:35(C).

Title 70
TRANSPORTATION
Part I. Highway Construction

Chapter 9. Design Standards for Freeways, Arterial, Collector and Local Highways Under the Jurisdiction of Political Subdivisions and Not in the State-Maintained System

§901. Design Standards for Rural Arterial Roads

Item No.	Item	Rural		
		RA-1	RA-2	RA-3
1	Design Speed (mph)	50 1	60 2	70
2	Number of Lanes (minimum) 3	2	2	4
3	Width of Travel Lanes (ft)	11 – 12 4	12	12
4	Width of Shoulders (minimum) (ft)			
	(a) Two Lane	8 5	8 5	N/A
	(b) Divided facilities			
	(1) Inside	4 (Paved)	4 (Paved)	4 6 (Paved)
	(2) Outside	8 5	8 5	8 – 10 7
5	Outside Shoulder Type	Aggregate (2' min paved)	Aggregate (2' min paved)	Paved
6	Parking Lane Width (ft)	N/A	N/A	N/A
7	Width of Median on Divided Facilities (ft)			
	(a) Depressed	42 – 60	42 – 60	60
	(b) Raised	N/A	N/A	N/A
	(c) Two way left turn lane	N/A	N/A	N/A
8	Fore slope (vertical – horizontal)	1:6	1:6	1:6
9	Back slope (vertical – horizontal)	1:4	1:4	1:4
10	Pavement Cross-slope (%) 8	2.5	2.5	2.5
11	Stopping Sight Distance (ft)	425	570	730
12	Maximum Superelevation (%) 9	10	10	10
13	Minimum Radius (ft) 10 (with full superelevation)	700	1,100	1,700
14	Maximum Grade (%) 11	4	3	3
15	Minimum Vertical Clearance (ft) 12	16	16	16
16	Minimum Horizontal Clearance (ft) (from edge of travel lane)	20	30 13	34
17	Bridge Design Live Load 14	AASHTO	AASHTO	AASHTO
18	Width of Bridges (min) (face to face of bridge rail at gutter line) (ft)	Roadway width	Roadway width	Roadway width

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:806 (April 2004).

§903. Footnotes for Rural Arterial Design Standards

A. The design speed may not be less than the current posted speed of the overall route.

B. Consider using RA-3 criteria for roadways that will be widened in the future.

C. Consider increasing to a 4-lane facility if design volume is greater than 6000 vehicles per day and 6 lanes if design volume is greater than 25,000 vehicles per day. If more than two lanes are to be provided, outside shoulders should be paved.

D. Twelve feet required when design ADT is 1500 or greater.

E. Six foot shoulders are allowed if design volume is between 400 to 2000 vehicles per day. Four foot shoulders are allowed if design volume is less than 400 vehicles per day.

F. Eight to ten feet on six lane facilit ies.

G. Consider using ten foot outside shoulders where trucks are greater than ten percent or if large agricultural vehicles use the roadway.

H. Two percent acceptable on rehabilitation projects.

I. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed eight percent from the emax = 10 percent table.

J. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum 12 feet) to provide adequate stopping sight distance on the structure.

K. Grades 1 percent higher are permissible in rolling terrain.

L. An additional six inches should be added for additional future surfacing.

M. On multilane facilities, use 32 feet.

N. For LFD and ASD designs an HST, 18 vehicle should be included as one of the live load vehicles.

O. General Note: Overlay design standards shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:806 (April 2004).

§905. Design Standards for Freeways

Item No.	Item	Urban		Rural
		F-1	F-2	F-3 1
1	Design Speed (mph)	50	60	70
2	Level of Service	C 3	C 3	B 2
3	Number of Lanes (minimum)	4	4	4
4	Width of Travel Lanes (ft)	12	12	12
5	Width of Shoulders (ft)			
	(a) Inside 4	6	6	6
	(b) Outside 5	10	10	10
6	Shoulder Type	Paved	Paved	Paved
7	Width of Median (minimum) (ft)			
	(a) Depressed	50	68 (min) – 100 (des)	72 (min) – 100 (des)
	(b) Continuous barrier (4 lane) 6	15	15	15
	Continuous barrier (6 lane) 6	27	27	27
8	Fore Slope (vertical – horizontal)	1:4 to 1:6	1:6	1:6
9	Back Slope (vertical – horizontal)	1:4	1:4	1:4
10	Pavement Cross Slope (%) 7	2.5	2.5	2.5
11	Stopping Sight Distance (ft)	425	570	730
12	Maximum Superelevation (%) 8	10	10	10
13	Minimum Radius (ft) 9 (with 10% superelevation)	700	1,100	1,700
14	Maximum Grade (%) 10	4	3	3
15	Minimum Vertical Clearance (ft) 11	16	16	16
16	Width of Right-of-Way (ft)			
	(a) Depressed median	As Needed	As Needed	Varies 12
	(b) Median barrier	As Needed	As Needed	As Needed
	(c) Minimum from edge of bridge structure 13	15 – 20	15 – 20	15 – 20
17	Bridge Design Live Load 14	AASHTO	AASHTO	AASHTO
18	Minimum Width of Bridges (face to face of bridge rail at gutter line) (ft)	Roadway Width	Roadway Width	Roadway Width
19	Horizontal Clearance (from edge of travel lane) (ft)			
	(a) 1:4 Fore slope	30	N/A	N/A
	(b) 1:6 Fore slope	22	32	34

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:807 (April 2004).

§907. Footnotes for Freeway Design Standards

A. These standards may be used in urban areas.

B. Level of Service C can be used in urban areas.

C. Level of Service D can be used in heavily developed urban areas.

D. Four feet to be paved, 10 feet to be paved on 6 lane facilities, 12 feet to be paved on 6 lane facilities with truck DDHV greater than 250.

E. Twelve feet paved when truck DDHV is greater than 250.

F. For larger medians two barriers may be required. The maximum offset of 15 feet from barrier to edge of travel lane shall not be exceeded.

G. Two percent permissible for rehabilitation projects.

H. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the emax = 10 percent table.

I. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

J. Grades 1 percent higher may be used in urban areas.

K. An additional 6 inches should be added for additional future surfacing. Seventeen feet is required for trusses and pedestrian overpasses.

L. As needed for urban projects: 300 feet to 330 feet for rural projects depending on median width.

M. Twenty-five feet shall generally be provided in accordance with EDSM II.1.1.1.

N. For LFD and ASD designs a HST-18 vehicle should be included as one of the live load vehicles.

O. General Note: Overlay design standards (separate sheet) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:807 (April 2004).

§909. Design Standards for Local Roads and Streets

Item No.	Item	Rural			Urban	
		RL-1	RL-2	RL-3	UL-1	UL-2
1	Design Speed (mph) 1	30	40	50	20	30
2	Average Daily Traffic	0 – 250	250 – 400	Over 400	N/A	N/A
3	Typical Number of Lanes	2	2	2	2	2
4	Minimum Width of Travel Lanes (ft)	9	9	11 – 12 2	10 – 11 3	10 – 11 3
5	Minimum Width of Shoulders (ft) 4	2	2	5 – 8 5	When used 6	When used 6
6	Shoulder Type	Aggregate	Aggregate	Aggregate	Paved	Paved
7	Minimum Width of Parking Lanes (where used) (ft)	N/A	N/A	N/A	7 – Residential 8 – Industrial	7 – Residential 8 – Industrial
8	Minimum Width of Sidewalk (where used) (ft)					
	(a) Offset from curb	N/A	N/A	N/A	4	4
	(b) Adjacent to curb	N/A	N/A	N/A	6	6
9	Fore Slope (vertical – horizontal)	1:3 7	1:3 7	1:4	1:3	1:3
10	Back Slope (vertical – horizontal)	1:2	1:2	1:3	1:2	1:2
11	Pavement Cross Slope (%) 8	2.5	2.5	2.5	2.5	2.5
12	Stopping Sight Distance (ft)	200	305	425	115	200
13	Maximum Superelevation (%)	10 9	10 9	10 9	4	4
14	Minimum Radius (ft) 10, 11					
	(a) With normal crown (-2.5% cross slope)	7,585	11,625	16,700	100	325
	(b) With 2.5% superelevation	1,930	3,250	5,000	85	250
	(c) With full superelevation	250	450	700	80	235
15	Maximum Grade (%) 12	7	7	6	10	9
16	Minimum Vertical Clearance (ft)	15	15	15	15	15
17	Minimum Horizontal Clearance (ft)					
	(a) From edge of travel lane	10 7	10 7	Varies 13	7 – Shoulder facilities	10 – Shoulder facilities
	(b) From back of curb	N/A	N/A	N/A	1 (min) – 6 (des)	1 (min) – 6 (des)
18	Bridge Design Load Live 14	AASHTO	AASHTO	AASHTO	AASHTO	AASHTO
19	Minimum Width of Bridges (face to face of bridge rail at gutter line)	Traveled way plus 4'	Traveled way plus 4'	Traveled 15 way plus 6'	Traveled 16, 17 way plus 8'	Traveled 16,17 way plus 8'
20	Bridge End Treatment	Yes	Yes	Yes	16	16

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:808 (April 2004).

§911. Footnotes for Local Road and Street Design Standards

A. The design speed may not be less than the current posted speed of the overall route.

B. For ADT greater than 2000, use 12-foot lane widths.

C. Lane widths in residential areas may be reduced to 9 feet if necessary. Twelve foot lane widths are preferred in industrial areas.

D. Where bicycles are prevalent, a paved 4-foot shoulder should be provided.

E. For ADT less than 1500, the minimum shoulder width may be reduced to 4 feet if necessary. For ADT 1500 to 2000, use 6-foot shoulders. For ADT over 2000, use 8-foot shoulders.

F. Select the shoulder width that corresponds to the ADT shown in the rural local standards.

G. The value shown should be provided on new roadways. A lesser value may be used on existing roads depending on soil stability, right-of-way constraints, the safety record of the road, and the size vehicles using the road. Guidance is available in the publication entitled "AASHTO Guidelines for Geometric Design of Very Low Volume Local Roads (ADT < 400)."

H. Two percent acceptable for rehabilitation projects.

I. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the emax = 10 percent table.

J. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

K. On roadways with an ADT < 400, a sharper radius may be used on fully superelevated roadways if necessary. For specific values refer to the publication entitled "AASHTO Guidelines for Geometric Design of Very Low Volume Local Roads (ADT < 400)." Different radii apply at divisional islands.

L. Grades 2 percent higher may be used in rural rolling terrain.

M. Varies from 14 feet to 28 feet. Refer to the Roadside Design Guide for the applicable value. For spot replacement projects refer to the applicable part of Footnote G.

N. For LFD and ASD designs a HST-18 vehicle should be included as one of the live load vehicles.

O. For ADT greater than 2000, use roadway width.

P. Refer to EDSM II.3.1.4 when sidewalks will be provided and for guardrail requirements.

Q. When shoulders are provided, the minimum bridge width shall be the larger of that shown or the roadway width.

R. These standards shall not apply to:

1. dead end roads (open at one end only);

2. roads that are dependent on dead end roads for access.

S. Urban standards may be applied to any street for which curb is to be used and the posted speed is less than 50 mph, or any street for which a posted speed of 30 mph or less would be appropriate.

T. On spot replacement projects the existing geometry and superelevation may remain providing there are no safety problems.

U. The appropriate local governing body is authorized to make design exceptions for specific items listed in these standards, with proper engineering justification.

V. General Note: Overlay design standards (separate sheet) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:808 (April 2004).

§913. Design Standards for Rural Collector Roads

Item No.	Item	Rural		
		RC-1	RC-2	RC-3
1	Average Daily Traffic 1	Under 400	400 – 2000	Over 2000
2	Design Speed (mph)	40 – 60 2	50 – 60 2	60
3	Number of Lanes	2	2	2 – 4 3
4	Width of Travel Lanes (ft)	11	11 – 12 4	12
5	Width of Shoulders (ft)			
	(a) Inside on multilane facilities	N/A	N/A	4
	(b) Outside	2 5	4 – 5 6	8
6	Shoulder Type	Paved	Aggregate (2' min paved)	Aggregate (2' min paved) (4' min paved on 4-lane facilities)
7	Width of Parking Lanes (ft)	N/A	N/A	N/A
8	Width of Median on multilane facilities (ft)			
	(a) Depressed	N/A	N/A	42 – 60
	(b) Raised	N/A	N/A	N/A
	(c) Two way left turn lane	N/A	N/A	N/A
9	Width of Sidewalk (minimum) (ft)			
	(a) Offset from curb	N/A	N/A	N/A
	(b) Adjacent to curb	N/A	N/A	N/A
10	Fore Slope (vertical – horizontal)	1:4	1:4	1:6
11	Back Slope (vertical – horizontal)	1:4 7	1:4	1:4
12	Pavement Cross Slope (%) 8	2.5	2.5	2.5
13	Stopping Sight Distance (ft)	305 (40 mph) 425 (50 mph) 570 (60 mph)	425 (50 mph) 570 (60 mph)	570
14	Maximum Superelevation (%) 9	10	10	10
15	Minimum Radius (ft) 10 (with full superelevation)	450 11	700 12	1,100
16	Maximum Grade (%)	7 (40 mph) 6 (50 mph) 5 (60 mph)	6 (50 mph) 5 (60 mph)	5
17	Minimum Vertical Clearance (ft) 13	15	15	15
18	Minimum Horizontal Clearance (ft) (from edge of travel lane)	10, 14, 24 14	26 (50 mph) 32 (60 mph)	30
19	Bridge Design Live Load 15	AASHTO	AASHTO	AASHTO
20	Minimum Width of Bridges (face to face of bridge rail at gutter line) (ft)	30	Roadway width	Roadway width

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:809 (April 2004).

§915. Footnotes for Rural Collector Design Standards

A. Current traffic may be used to determine the appropriate classification.

B. The design speed may not be less than the current posted speed of the overall route.

C. For rolling terrain, limited passing sight distance and high percentage trucks, further analysis should be made to determine if additional lanes are required when ADT is above 7,000.

D. For design speeds greater than 50 mph and ADT greater than 1,500 use 12-foot lanes.

E. Where bicycle activity is observed, a 4-foot shoulder should be provided.

F. For ADT greater than 1,500 use 6 foot shoulders.

G. 1:3 back slopes are allowed where right-of-way restrictions dictate.

H. Two percent acceptable for rehabilitation projects.

I. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the emax = 10 percent table.

J. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

K. Radius based on 40 mph. Radii for 50 mph and 60 mph are shown under the RC-2 and RC-3 classifications respectively.

L. Radius based on 50 mph. The radius for 60 mph is shown under the RC-3 classification.

M. Where the roadway dips to pass under a structure, a higher vertical clearance may be necessary. An additional 6 inches should be added for additional future surfacing.

N. The lower value is based on a 40 mph design speed, the middle value for 50 mph and the upper value for 60 mph.

O. For LFD and ASD designs a HST-18 vehicle should be included as one of the live load vehicles.

P. General Note: Overlay design standards (separate sheet) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:809 (April 2004).

§917. Design Standards for Urban and Suburban Arterial Roads and Streets

Item No.	Item	Urban			Suburban 1	
		UA-1	UA-2	UA-3	SA-1	SA-2
1	Design Speed (mph)	40	45	50	50	55
2	Level of Service	C 2	C 2	C 2	C	C
3	Number of Lanes	2 (min) – 4 (typ)	2 (min) – 4 (typ)	2 (min) – 4 (typ)	2 (min) – 4 (typ)	2 (min) – 4 (typ)
4	Width of Travel Lanes (ft)	11	11 – 12	12	12	12
5	Width of Shoulders (minimum) (ft) 3					
	(a) Inside on multilane facilities	N/A	N/A	4	4	4
	(b) Outside	8	8	8	8	8
6	Shoulder Type	Paved	Paved	Paved	Paved	Paved
7	Parking Lane Width (ft)	10 – 12	10 – 12	N/A	N/A	N/A
8	Width of Median on Multilane Facilities (ft)					
	(a) Depressed	N/A	N/A	30	30 – 42	42
	(b) Raised	6 – 30 4	6 – 30 4	30	30	30
	(c) Two way left turn lane	11 – 14 typ.	11 – 14 typ.	N/A	N/A	N/A
9	Width of Sidewalk (minimum) (where used) (ft) 5					
	(a) Offset from curb	4	4	4	4	4
	(b) Adjacent to curb	6	6	N/A	N/A	N/A
10	Fore slope (vertical – horizontal)	1:3 (min) – 1:4 (des)	1:3 (min) – 1:4 (des)	1:4	1:4 to 1:6	1:6
11	Back slope (vertical – horizontal)	1:3	1:3	1:3	1:3	1:4
12	Pavement Cross-slope (%) 6	2.5	2.5	2.5	2.5	2.5
13	Stopping Sight Distance (ft)	305	360	425	425	495
14	Maximum Superelevation (%)	4	4	4	4	6
15	Minimum Radius (ft) 7, 8					
	(a) With normal crown (-2.5% cross-slope)	700	1,000	16,700	16,700	19,700
	(b) With 2.5% superelevation	550	750	3,500	3,500	5,250
	(c) With full superelevation	500	700	1,000	1,000	1,100
16	Maximum Grade (%)	7	6	6	4 9	4
17	Minimum Vertical Clearance (ft) 10	16	16	16	16	16
18	Minimum Horizontal Clearance (ft)					
	(a) From edge of travel lane	18 11	25 11	28	20 – 28 12	24
	(b) Outside (from back of curb) (when curb is used)	6 (min) – 15 (des)	6 (min) – 15 (des)	19	10 (1:6) 18 (1:4)	14
	(c) Median (from back of curb) (when curb is used)	4 (min) – 15 (des)	4 (min) – 15 (des)	13	12	18
19	Bridge Design Live Load 13	AASHTO	AASHTO	AASHTO	AASHTO	AASHTO
20	Width of Bridges (minimum) (face to face of bridge rail at gutter line) 14					
	(a) Curbed facilities (without sidewalks)	Traveled 15 way plus 8'	Traveled 15 way plus 8'	Roadway width	Roadway width	Roadway width
	(b) Shoulder facilities	Roadway width	Roadway width	Roadway width	Roadway width	Roadway width
21	Guardrail Required at Bridge Ends	15	15	Yes	Yes	Yes

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:810 (April 2004).

§919. Footnotes for Urban and Suburban Arterial Design Standards

A. These standards may be used only on a rural roadway section that adjoins a roadway section currently classified as urban. The standard selected should be based on the posted speed.

B. Level of service D allowable in heavily developed urban areas.

C. Curb may be used in place of shoulders on UA-1 and UA-2 facilities. If used on suburban facilities, it shall be placed at the edge of shoulder on two lane facilities and 1 foot beyond the edge of the shoulders on multilane facilities. If used on UA-3 facilities, it shall be placed at the edge of the shoulder. For design speeds greater than 45 mph, curb will not be placed in front of guardrail.

D. The minimum median width may be reduced to 4 feet if curb offsets are not provided. On principal arterials, particularly at intersections, the upper limit should be considered.

E. If shoulders are used, sidewalks should be separated from the shoulder.

F. Two percent acceptable for rehabilitation projects.

G. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

H. Different radii apply at divisional islands.

I. Grades one percent higher are permissible in rolling terrain.

J. An additional 6 inches should be added for additional future surfacing.

K. Applies to facilities with shoulders. Refer to the Roadside Design Guide when 1:3 fore slopes are used.

L. Use the larger value when 1:4 fore slopes are used.

M. For LFD and ASD designs a HST-18 vehicle should be included as one of the live load vehicles.

N. For suburban roads with shoulders and curbs, consider widening each bridge 8 feet to allow for a future lane and 4 foot offsets to bridge rail.

O. Refer to EDSM II.3.1.4 when sidewalks will be provided and for guardrail requirements.

P. General Note: Overlay design standards (separate sheet) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with RS. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:811 (April 2004).

§921. Design Standards for Urban and Suburban Collector Roads and Streets

Item No.	Item	Urban		Suburban 1		
		UC-1	UC-2	SC-1	SC-2	SC-3
1	Average Daily Traffic	N/A	N/A	N/A	N/A	N/A
2	Design Speed (mph)	30 - 40	45	40	45	50
3	Number of Lanes (minimum)	2 – 4	2 – 4	2 – 4	2 – 4	2 – 4
4	Width of Travel Lanes (ft)	11 – 12	12	11	11	11 – 12 2
5	Width of Shoulders (ft)					
	(a) Inside on multilane facilities	N/A	N/A	N/A	N/A	4 3
	(b) Outside	8 2, 4	8 2, 4	4 – 5 4	4 – 5 4	6, 8 5
6	Shoulder Type	Paved	Paved	Paved	Paved	Paved
7	Width of Parking Lanes (where used) (ft)	7 – 10 6	11	7 – 10 6	11	N/A
8	Width of Median on multilane facilities (ft)					
	(a) Depressed	N/A	N/A	N/A	N/A	30
	(b) Raised	4 (min) – 30 (des)	4 (min) – 30 (des)	4 (min) – 30 (des)	4 (min) – 30 (des)	26
	(c) Two way left turn lane	11 – 14 typ.	11 – 14 typ.	11 – 14 typ.	11 – 14 typ.	N/A
9	Width of Sidewalk (minimum) (where used) (ft) 7					
	(a) Offset from curb	4	4	4	4	4
	(b) Adjacent to curb	6	6	6	6	N/A
10	Fore Slope (vertical – horizontal)	1:3 – 1:4 8	1:3 – 1:4 8	1:4	1:4	1:4
11	Back Slope (vertical – horizontal)	1:3 9	1:3	1:3	1:3	1:3
12	Pavement Cross Slope (%) 10	2.5	2.5	2.5	2.5	2.5
13	Stopping Sight Distance (ft)	200 (30 mph) 305 (40 mph)	360	305	360	425
14	Maximum Superelevation (%)	4	4	4	4	6
15	Minimum Radius (ft) 11, 12					
	(a) With normal crown (-2.5% cross slope)	325 (30 mph) 700 (40 mph)	1,000	700	1,000	16,700
	(b) With 2.5% superelevation	250 (30 mph) 550 (40 mph)	750	550	750	4,400
	(c) With full superelevation	235 (30 mph) 500 (40 mph)	700	500	700	900
16	Maximum Grade (%)	9	8	7	6	6
17	Minimum Vertical Clearance (ft) 13	15	15	15	15	15

18	Minimum Horizontal Clearance (ft)					
	(a) From edge of travel lane	10	10	10	10	26 – 28 14
	(b) Outside (from back of curb) (when curb is used)	1 (min) – 6 (des)	6 (min) – 15 (des)	1 (min) – 6 (des)	6 (min) – 15 (des)	17 – 19 15
	(c) Median (from back of curb) (when curb is used)	1 (min) – 6 (des)	4 (min) – 15 (des)	1 (min) – 6 (des)	4 (min) – 15 (des)	13
19	Bridge Design Live Load 16	AASHTO	AASHTO	AASHTO	AASHTO	AASHTO
20	Minimum Width of Bridges (face to face of bridge rail at gutter line)					
	(a) Curbed facilities (without sidewalks)	Traveled 17 way plus 8'	Traveled 17 way plus 8'	Traveled 17 way plus 8'	Traveled 17 way plus 8'	Roadway width
	(b) Shoulder facilities	Roadway width	Roadway width	Roadway width	Roadway width	Roadway width
21	Guardrail Required at Bridge Ends	17	17	17	17	Yes

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:811 (April 2004).

§923. Footnotes for Urban and Suburban Collector Design Standards

A. These standards may be used only on a rural roadway section that adjoins a roadway section currently classified as urban. The standard selected should be based on the posted speed.

B. For ADT less than 2,000 refer to Exhibit 6-5 on page 429 in the "AASHTO 2001 Policy on Geometric Design of Highways and Streets."'

C. Applicable to depressed medians only.

D. Curb may be used instead of shoulder. Where bicycle activity is observed, a bike lane should be considered.

E. If curb will not be used, shoulder widths may be reduced, see Footnote B. When curb is used on multilane facilities, it shall be placed at the edge of shoulder. When curb is used on two-lane facilities, 8 foot shoulders will be required if a future center turn lane will be added. Curb will not be placed in front of guardrail.

F. Seven and 8-foot widths are limited to residential areas for 30 and 40 mph respectively.

G. If shoulders are used, sidewalks should be separated from shoulder.

H. Where shoulders are used, 1:4 minimum fore slopes are required through the limits of horizontal clearance.

I. 1:2 back slopes are allowed where right of way restrictions dictate.

J. Two percent acceptable for rehabilitation projects.

K. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

L. Different radii apply at divisional islands.

M. Where the roadway dips to pass under a structure, a higher vertical clearance may be necessary. An additional 6 inches should be added for additional future surfacing.

N. The higher value is applicable to roadways with an ADT greater than 6,000.

O. These values apply to roadways with 8-foot shoulders.

P. For LFD and ASD designs a HST-18 vehicle should be included as one of the live load vehicles.

Q. Refer to EDSM II.3.1.4 when sidewalks will be provided and for guardrail requirements.

R. General Note: Overlay design standards (separate sheet) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:812 (2004).

Kam K. Movassaghi, Ph.D., P.E.
Secretary

0404#070

Notices of Intent

NOTICE OF INTENT

Department of Economic Development
Office of the Secretary
and
Office of the Governor
Office of Financial Institutions
Office of the Commissioner

Capital Companies Tax Credit Program
(LAC 10:XV.331)

The Louisiana Department of Economic Development (herein referred to as DED), Office of the Secretary, and Office of the Governor, Office of Financial Institutions, Office of the Commissioner, pursuant to the authority of R.S. 51:1921 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby give notice of their intention to adopt the following amendment to the Rules of the Capital Companies Tax Credit Program. The amendments are being promulgated to incorporate legislative changes and provide guidance with respect to changes in policy.

Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC
Part XV. Other Regulated Entities
Chapter 3. Capital Companies Tax Credit Program
§331. Qualified Technology Funds

A. An applicant seeking designation as a qualified technology fund shall provide to the secretary the following information along with the request for this designation:

1. the charter documents for the entity that will constitute the qualified technology fund;

2. copies of any management agreements to which the qualified technology fund contemplates being a party, and a description of any contemplated comparable arrangement;

3. a reasonably detailed description of how the qualified technology fund meets and will continue to meet the criteria of R.S. 51:1923(16);

4. a copy of the qualified technology fund's investment policy;

5. evidence in form and substance acceptable to the secretary by which the qualified technology fund agrees to make all of the investments made by it with the proceeds of any investment from a certified Louisiana capital company in qualified Louisiana technology-based businesses, as required by R.S. 51:1923(16)(b);

6. a written undertaking of the qualified technology fund in form and substance acceptable to the secretary by which the qualified technology fund agrees that the commissioner shall regulate the investment of the certified capital received by the qualified technology fund as required by R.S. 51:1923(16)(d);

7. a written undertaking of the qualified technology fund in form and substance acceptable to the secretary by which the qualified technology fund agrees to provide:

a. to the secretary by August 1 of each year the information required to be included in the secretary's report described in R.S. 51:1927.2, with respect to the operations and investments of the qualified technology fund, to the extent that such information is relevant to the qualified technology fund; and

b. to the commissioner the information required by R.S. 51:1926(F), by the dates set forth therein, to the extent that such information is relevant to the qualified technology fund; and

8. such additional information as may be requested by the secretary with regard to the qualified technology fund or its ownership, management or operations.

B. A qualified technology fund shall be designated by the secretary for purposes of qualifying an investment in the qualified technology fund under R.S. 51:1923(12)(d) if the applicant meets the criteria set forth in each of Paragraphs 1 through 4 of this Subsection B, or if it meets such additional or other criteria determined by the secretary from time to time.

1. The applicant has delivered to the secretary all of the information required by Subsection A of this Section.

2. The information delivered to the secretary pursuant to this Section demonstrates that the qualified technology fund meets the criteria under R.S. 51:1923(16).

3. The information delivered by the applicant shall demonstrate reasonable prospects for the qualified technology fund to invest the following percentages of each of the qualified technology fund's investment pools within the following time periods:

a. on or before the second anniversary of the investment date of the investment pool, 50 percent of the investment pool invested in qualified Louisiana-based technology businesses; and

b. on or before the third anniversary of the investment date of the investment pool, 100 percent of the investment pool invested in qualified Louisiana-based technology businesses.

4. The charter and/or management documents with respect to the applicant shall provide that:

a. the non-certified capital company representatives involved with the management of the applicant have the authority to appoint a majority of the members (including the chairman) of each of:

i. the board of directors, board of managers or other similar governing authority of the applicant and any entity responsible for the direction of the applicant's investment decisions; and

ii. any committee of the board of managers, board of directors or other similar governing authority of the applicant with the authority to approve investment decisions and any such committee of any entity responsible for the direction of the applicant's investment decisions; provided that the certified Louisiana capital companies investing in the qualified technology fund may retain a right to representation on any such boards or committees and a right to veto, by majority vote of those certified capital companies

present and voting at any meeting for such purpose, investment decisions of such boards or committees;

b. the qualified technology fund shall have management representation from at least one of the Louisiana research parks identified in R.S. 51:1923(16)(a) or any other technology park certified by the secretary;

c. each member of any board, committee or other governing authority of the applicant or any entity responsible for applicant's investment decisions shall disclose in writing all conflicts of interest with respect to any prospective investment by the applicant (except for conflicts of interest existing solely because of a prior investment by the qualified technology fund or any investment pool or subsidiary thereof) and no such member may vote on any such matter; provided that, the fact that a business is located at or is being assisted or incubated by a Louisiana research park or other technology park shall not in and of itself constitute a conflict of interest for a representative of the park serving on the board of director or any committee of the qualified technology fund with respect to matters relating to that business; and

d. the applicant may not invest in any qualified Louisiana-based technology business in which a certified Louisiana capital company that is a participant in the qualified technology fund has previously invested except for a follow-on investment by the qualified technology fund to the extent that the certified Louisiana capital company's first investment in the qualified Louisiana-based technology business was closed contemporaneously with or after a previous investment by the qualified technology fund, and further provided that the investment by the qualified technology fund does not serve to directly or indirectly repay or refund all or a portion of the certified Louisiana capital company's previous investment.

C. Qualified technology funds which are approved by the secretary pursuant to this Section shall be subject to the following additional provisions.

1. The information provided by a qualified technology fund to the office or the department shall be subject to R.S. 51:1926(D) and 51:1934.

2. A qualified technology fund shall not make any investment in any qualified Louisiana-based technology business if either:

a. the business is involved in any of the lines of business identified in R.S. 51:1926A(3); or

b. if after making the investment the total investment outstanding in such business and its affiliates would exceed the greater of:

i. twenty-five percent of the total certified capital invested by certified Louisiana capital companies in the qualified technology fund; or

ii. $500,000.

3. No initial investment by the qualified technology fund in a qualified Louisiana-based technology business, when aggregated with all other investments by the qualified technology fund in such business which are made within the 12 month period following the date of the initial investment, will exceed the greater of:

a. fifteen percent of the total certified capital invested by certified Louisiana capital companies in the qualified technology fund; or

b. $300,000.

4. Before any investment is made by a qualified technology fund, the qualified technology fund shall obtain an affidavit from the qualified Louisiana-based technology business in the form required by R.S. 51:1926(G).

5.a. All distributions made by a qualified technology fund to a certified Louisiana capital company which has invested in the qualified technology fund shall constitute certified capital which is subject to the requirements of R.S. 51:1928(C).

b. A qualified technology fund shall not make any payment or distribution to any CAPCO or affiliate of a certified Louisiana capital company which has invested in it that is not covered by Subparagraph C.5.a of this Section unless approved in advance by the secretary.

6.a. An investment by a certified capital company in a qualified technology fund that is approved by the secretary in accordance with this Section shall be deemed to "further economic development within Louisiana" for purposes of R.S. 51:1923(12); provided that each investment by a qualified technology fund in qualified Louisiana technology-based businesses must:

i. "further economic development within Louisiana" as provided by rule with respect to qualified Louisiana businesses; and

ii. consist of the investment of cash and result in the acquisition of either:

(a). non-callable equity in a qualified Louisiana technology-based business; or

(b). a note issued by a qualified Louisiana technology-based business with a stated final maturity date of not less than three years; provided that the aggregate of all investments by the qualified technology fund in debt instruments with a stated maturity of less than five years may not exceed 25 percent of the total certified capital invested by certified capital companies in the qualified technology fund.

b. The qualified technology fund need not be a Louisiana business and industrial development corporation to provide financing assistance to qualified Louisiana technology-based businesses.

7. The aggregate management fees charged by a certified Louisiana capital company and a qualified technology fund with respect to funds invested by the certified Louisiana capital company in the qualified technology fund shall not exceed the amount permitted by R.S. 51:1928(C)(3).

8. The qualified technology fund shall submit to the commissioner, on or before April 30th, annual audited financial statements which include the opinion of an independent certified public accountant.

9. The commissioner shall conduct an annual review of the qualified technology fund and its various investment pools similar to the annual review of certified capital companies pursuant to R.S. 51:1927(A).

D. An investment by a certified Louisiana capital company in a qualified technology fund approved by the secretary pursuant to this Section shall constitute an investment and a qualified investment for purposes of R.S. 51:1926(A)(1) and (2) on the date that the certified Louisiana capital company makes the investment in the qualified technology fund or in an investment pool sponsored and administered by the technology fund if the

investment by the certified Louisiana capital company is in cash and is either in the form of equity which is not subject to redemption prior to the third anniversary of the date of investment or debt which has a stated final maturity date of not less than three years from the origination of the debt investment in the qualified technology fund.

E. An investment by a certified Louisiana capital company in a qualified technology fund approved by the secretary pursuant to this Section shall not constitute a qualified investment for purposes of 51:1927.1(C)(1), (2) and (3) and 51:1928(B)(3) until the qualified technology fund has invested an amount equal to 100 percent of the investment pool which includes the investment by the certified Louisiana capital company. If as of the third anniversary of the investment date of the investment pool which includes a certified Louisiana capital company's investment in a qualified technology fund the qualified technology fund has failed to invest 100 percent of the investment pool in qualified Louisiana-based technology businesses in accordance with R.S. 51:1923(16) and this Section, the certified Louisiana capital company may demand repayment or redemption of its pro rata share of the uninvested portion and:

1. the invested portion with respect to such certified Louisiana capital company shall be considered to have been invested in qualified investments for purposes of R.S. 51:1927(C)(1), (2) and (3) and R.S. 51:1928(B)(3); and

2. the uninvested portion returned to the certified Louisiana capital company shall thereafter only be deemed to have been invested in a qualified investment for purposes of R.S. 51:1927.1(C)(1), (2) and (3) and R.S. 51:1928(B)(3) when such funds are invested in qualified investments in qualified Louisiana-based technology businesses; and

3. the repayment or redemption shall not adversely affect the status of such funds as having been invested in a qualified investment for purposes of R.S. 51:1926(A)(1) and (2).

F. For purposes of this Section, the term "investment pool" means not less than all of the cash invested by certified Louisiana capital companies in a qualified technology fund on the same day.

G. A qualified technology fund may organize separate entities to separate the investments which comprise its different investment pools so long as each such separate entity is organized and managed in a manner materially the same as approved by the secretary pursuant to this Section. Each separate entity shall be subject to regulation as a "qualified technology fund" but need not be separately approved as such by the secretary.

H. The secretary shall respond to an application to become a qualified technology fund within 30 days of receipt of the information required by Subsection A of this Section.

I. To become certified as a "technology park" that is permitted to be involved in the management of a qualified technology fund pursuant to R.S. 51:1923(16)(a) (in addition to the entities specifically enumerated in R.S. 51:1923(16)(a)), an applicant shall submit to the secretary:

1. the charter documents for the applicant;

2. a detailed description of the management and operations of the applicant;

3. a statement showing all owners, operators, managers, beneficiaries or other interest holders of the applicant who benefit financially (directly or indirectly) from the operations of the applicant;

4. a list of qualified Louisiana-based technology businesses that have been assisted by the services provided by the applicant and a list of references from those entities, with contact information;

5. a copy of the applicant's mission statement, goals, purposes or other similar statements;

6. the audited financial statements of the applicant from the prior fiscal year with an opinion of independent certified public accountants;

7. information from which the secretary can determine whether the applicant meets the criteria of a Louisiana research park, as defined in R.S. 51:1923(11); and

8. such additional information as may be requested by the secretary with regard to the applicant.

J. The secretary shall approve an applicant as a "technology park" for purposes of participating in the management of a qualified technology fund if the applicant meets the following criteria or such additional or other criteria determined by the secretary from time to time:

1. the applicant is a Louisiana research park, as defined in R.S. 51:1923(11); and

2. in the secretary's reasonable opinion, the information delivered by the applicant to the secretary demonstrates that the applicant has a history and a mission materially contributing to the economic development of the state of Louisiana by providing assistance to qualified Louisiana-based technology businesses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1929 and 1935.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, and the Office of the Governor, Office of Financial Institutions, Office of the Commissioner, LR 30:

Family Impact Statement

These proposed Rules should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D), or on family formation, stability and autonomy. There should be no known or foreseeable effect on: the stability of the family; the authority and rights of parents regarding the education and supervision of their children; the functioning of the family; on family earnings and family budget; the behavior and responsibility of children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to Richard House, Executive Counsel, Legal Division, Louisiana Department of Economic Development, P. O. Box 94185, Baton Rouge, LA 70804-9185, or physically delivered to Capitol Annex Building, Second Floor, 1051 North 3rd Street, Baton Rouge, LA, 70802. All comments must be submitted (mailed and received) by 5 p.m., May 21, 2004.

Don J. Hutchinson
Secretary
and
John D. Travis
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Capital Companies Tax Credit Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no incremental costs or savings due to the implementation of these rules into this Program. Current staff of the Department will be sufficient to process and monitor these Rules within this Program. There will be no increase in costs or savings. Funding this Program will come from the regular authorized appropriations received by the Department and the Economic Development Fund.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected impact 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 are no anticipated additional costs to directly affected persons or non-governmental groups. The economic benefit of such Rules will inure to Louisiana Capital Companies which invest in Louisiana-based technology funds, which is intended to provide assistance in the formation and expansion of new businesses which create jobs and enhance economic development throughout Louisiana by providing for the availability of venture capital financing for the development and operation of qualified Louisiana businesses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Investments by Louisiana Capital Companies in Louisiana-based technology funds contemplated by the Act and the Rule will provide assistance in the formation and expansion of new businesses which create jobs and greatly enhance economic development throughout Louisiana by providing for the availability of venture capital financing for the development and operation of qualified Louisiana businesses, all of which will create increased competition and employment prospects for Louisiana residents throughout the state.

Richard House	Robert E. Hosse
Executive Counsel	General Government Section Director
0404#071	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111? Louisiana School, District, and State Accountability System
(LAC 28:LXXXIII.301, 514, 703, 1505, 1701, 3101, 3107, and 3109)

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 revisions to *Bulletin 111? The Louisiana School, District, and State Accountability System* (LAC 28:LXXXIII). 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 existing policy as follows: school performance scores; subgroup performance scores; exiting school improvement; and appeals process.

Title 28
EDUCATION
Part LXXXIII. Bulletin 111? Louisiana School, District, and State Accountability System

Chapter 3. School Performance Score Component

§301. School Performance Score Goal

A. - D. …

E. Beginning in 2003, for schools that are currently in CAII or have an interim SPS of less than 45, the LDE shall release preliminary school performance scores and school improvement status at least two weeks prior to the 2003-04 school year. Beginning in 2004, preliminary accountability results issued each summer shall include both preliminary school performance scores and subgroup component analyses for all schools. Final accountability results shall be issued during the fall semester of each year.

E.1. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 30:

Chapter 5. Calculating the NRT Index

§514. Subgroup Performance Scores (GPS)

A.1. A Growth GPS is calculated using one year of data (CRT, NRT, attendance, and for schools with grades higher than grade 6, dropouts)

2. A Baseline GPS, except in cases involving new schools (Chapt. 33), is calculated using two years of data.

3. The Growth GPS minus the Baseline GPS determines if the subgroup made adequate growth for the school to be considered for exemplary academic growth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

Chapter 7. Subgroup Component

§703. Inclusion of Students in the Subgroup Component

A. - E. …

1. In calculating the subgroup component for a school, the alternate academic achievement standards for students participating in LAA will be used, provided that the percentage of proficient LAA students at the district level does not exceed 1.0 percent of all students in the grades assessed. If the district exceeds the 1.0 percent proficient cap, the district shall request a waiver. If the district fails to request the waiver or if the district requests the waiver but it is determined by LDE that ineligible students were administered LAA, the students that exceed the cap or that are ineligible shall be assigned a zero on the assessment and considered nonproficient.

C.2. - D.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 30:

Chapter 15. School Improvement (formerly called Corrective Actions)

§1505. Exit from School Improvement

A. A school shall exit school improvement when the fall accountability results indicate:

1. - 3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:

Chapter 17. Requirements for Schools in School Improvement (SI)

§1701. School Improvement 1 Requirements

A. - B.4. …

C. School Improvement 1 Requirements

1. A Revised or New School Improvement Plan. All Louisiana schools were required to have a school improvement plan in place by May of 1998. Within 90 days of initial identification, those schools placed in School Improvement 1 (SI 1) shall be required to review and either revise or completely rewrite their plan, with the assistance of a district assistance team, according to the guidelines established by the Louisiana Department of Education, and submit it to the Division of School Standards, Accountability, and Assistance.

2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:2746, amended LR 30:

Chapter 31. Data Correction and Appeals/Waivers Procedure

§3101. Appeals/Waivers Process

A. …

B. The LDE shall review appeal/waiver requests and make recommendations to the SBESE within 60 days, beginning the last day of the appeals/waiver filing period. Within this interval, the LDE shall notify LEAs of its recommendations and allow them to respond in writing. The LDE's recommendations and LEA responses will be forwarded to SBESE for final disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December 2003), amended LR 30:

§3107. General Guidelines: Local Board of Education-Level Requests

A. The Superintendent or official representative of each local governing board of education shall complete the LDE's Appeals/Waivers Request Form and provide supporting documentation to the Division of School Standards, Accountability, and Assistance no later than 30 calendar days after the release of the preliminary accountability results in the summer of each year.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2752 (December 2003), amended LR 30:

§3109. Criteria for Appeal

A. LEA superintendents shall notify the LDE in writing of any changes to existing school configurations, changes to option status for alternative schools or pair/share status during the LDE accountability status verification process prior to the calculation of the school performance scores and subgroup component scores. Appeal recalculations shall be made using the information provided to the LDE in the following instances:

A.1. - B. …

C. If an LEA does not submit changes to school status to the LDE during the accountability status verification process, the LEA may petition the SBESE during the Appeals timeframe, after the summer SPS release. LEAs may petition the SBESE in instances not addressed by policy or in instances when the policy is unclear.

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2752 (December 2003), amended LR 30:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements will be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule effect the stability of the family? No.

2. Will the proposed Rule effect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule effect the functioning of the family? No.

4. Will the proposed Rule effect family earnings and family budget? No.

5. Will the proposed Rule effect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit comments until 4:30 p.m., June 9, 2004, to Nina Ford, State 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: The Louisiana School, District, and State 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 clarify existing policy as it pertains to the school subgroup performance scores, pair/share relationships, rewards/recognition eligibility, and district accountability.

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 Langley	H. Gordon Monk
Deputy Superintendent	Staff Director
Management and Finance	Legislative Fiscal Office

0404#033

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741? Louisiana Handbook for School Administrators? High School Graduation Requirements (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 revisions to *Bulletin 741? The Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR l:483 (November 1975). This policy change will require local school districts to offer a minimum of 50 hours of remediation each year for students who do not pass the Graduation Exit Exam (GEE21). The remediation should be offered in mathematics, English language arts, science, and social studies. This policy change will take effect with the 2004-2005 school year. The current policy regarding remediation for students who fail the Graduation Exit Exam (GEE21) does not give any guidance regarding the amount of remediation that should be provided. The revision adds a minimum amount of time for remediation.

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 LR 28:269, 272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:2757, 2760 (December 2003), LR 30:394, 395 (March 2004), LR 30:

* * *

High School Graduation Requirements

2.099.00 In addition to completing a minimum of 23 Carnegie units of credits, the student shall also be required to pass the Graduation Exit Examination (GEE 21), beginning with the 1991 graduating class. This requirement shall first apply to students classified as sophomores in 1988-89 and thereafter.

The English language arts, writing, and mathematics components of the GEE 21 shall first be administered to students in the 10th grade.

The science and social studies components of the graduation test shall first be administered to students in the 11th grade.

Remediation and retake opportunities will be provided for students that do not pass the test. Students shall be offered 50 hours of remediation each year in each content area they do not pass.

Effective for incoming freshman 2000-2001, a student may apply a maximum of two Carnegie units of elective credit toward high school graduation by successfully completing specially designed courses for remediation.

Effective for the 2000-2001 school year and thereafter, a maximum of one Carnegie unit of elective credit may be applied toward meeting high school graduation requirements by an eighth grade student who has scored at the *Unsatisfactory* achievement level on either the English Language Arts and/or the Mathematics component(s) of the eighth grade LEAP 21 provided the student: ?? Successfully completed specially designed elective(s) for LEAP 21 remediation; ?? Scored at or above the Basic achievement level on those component(s) of the 8th grade LEAP 21 for which the student previously scored at the Unsatisfactory achievement level.

A student may apply a maximum of two Carnegie units of elective credit toward high school graduation by: ?? Earning one elective credit through remediation for 8th grade LEAP 21 and or one elective credit through GEE 21 remediation; or ?? Earning two elective credits through GEE 21 remediation.

* * *

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

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? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., June 9, 2004, to Nina Ford, State 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: High School Graduation Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed revision to Bulletin 741, the Louisiana Handbook for School Administrators, would require school districts to offer a minimum of fifty hours of remediation each year for students who do not pass the Graduation Exit Exam (GEE21). The remediation should be offered in mathematics, English language arts, science, and social studies. This policy change will take effect with the '04-'05 school year.

If school districts are not currently offering 50 hours of remediation in each subject, they might incur more costs if they decide to offer the remediation outside the regular school day. Because the remediation can be offered in a variety of ways, it is impossible to estimate what the additional costs would be.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no effects on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Marlyn Langley	H. Gordon Monk
Deputy Superintendent	Staff Director
Management and Finance	Legislative Fiscal Office

0404#064

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741? Louisiana Handbook for School Administrators? Instructional Time Requirement (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 revisions to *Bulletin 741? The Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR l:483 (November 1975). This policy change will allow local school districts to request a waiver of the instructional time requirement when a natural disaster or catastrophe occurs within the last 30 days of school. The waiver request must explain the reasons why such school or school system cannot meet the requirements and any efforts made by the school or school system toward meeting the requirements. This change was required by Act 915 of the 2003 Regular Legislative Session and signed by the governor.

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 in LR 28:269, 272 (February 2002, LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:2757, 2760 (December 2003), LR 30:394, 395 (March 2004), LR 30:

* * *

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.

Waivers of instructional time due to natural catastrophes or disasters may be granted when the school closure occurs within the last 30 calendar days of the school year with the certification of the State Superintendent of Education and the approval of the State Board of Elementary and Secondary Education. Prior to requesting a waiver, the school system should submit its proposed schedule revisions in its automated school calendar file to the State Department of Education for processing. The revised calendar file should reflect all information necessary to verify any time changes by district, school or grade necessitated by the emergency. After processing the revised calendar file, the system will receive a report reflecting the total instructional days calculated from the data provided.

If the revised schedule does not meet the minimum instructional days requirement and good reasons exist that prevent the system from meeting the requirement, the school system may request the waiver by submitting a letter to the State Superintendent of Education. The letter must contain documented information explaining the reasons why such school or school system cannot meet the requirements and any efforts made by the school or school system toward meeting the requirements. The waiver shall apply to an entire school system only if every school within the system is forced to close for the same reason, for the same time, due to the same natural catastrophe or disaster. A waiver will not be granted if no impediment exists that would prevent a school or school system from meeting the instructional time requirements by extending its school year.

Refer to R.S. 17.154.

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 (2) 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.

* * *

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

I. 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? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., June 9, 2004, to Nina Ford, State 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: Instructional Time Requirement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed revision to Bulletin 741, the Louisiana Handbook for School Administrators, would allow school districts to request a waiver of the policy requiring 177 days of instructional time when a natural catastrophe or disaster occurs within the last thirty days of the school year. This policy change will not involve any implementation costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no effects on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance

H. Gordon Monk
Staff Director
Legislative Fiscal Office

0404#034

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746? Louisiana Standards for State Certification of School Personnel? Validity, Reinstatement, Renewal, and Extension of Certificates (LAC 28:I.903)

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 746? Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. These changes to current Bulletin 746 policy add language for the implementation of Continuing Learning Units (CLUs) and High Quality Professional Development. This added language streamlines current policy and aligns Bulletin 746 policy with No Child Left Behind Act of 2001 requirements.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 28:2500, 2501, 2502, 2505 (December 2002), LR 29:117, 119, 121 (February 2003), LR 30:

* * *

Validity, Reinstatement, Renewal, and Extension of Certificates

A Continuing Learning Unit (CLU) is a professional development activity that builds capacity for effective, research-based, content-focused teaching and learning that positively impacts student achievement. The CLU is a unit of measure used to quantify an educator's participation in a district/system-approved, content-focused professional development aligned with the educator's individual professional growth plan.

Educators may earn one CLU for each clock hour of active engagement in a district/system-approved high quality professional development.

Each educator is responsible for maintaining required documentation and reporting of earned CLUs in a manner prescribed by the district/system. Earned CLUs transfer across Local Education Agencies (LEAs).

Educators needing CLUs to meet the No Child Left Behind requirements for "highly qualified" under the Louisiana High Objective Uniform State Standard of Evaluation (HOUSSE) option must earn a total of 90 CLUs. Educators needing CLUs under Louisiana's HOUSSE option must earn 90 CLUs between January 8, 2002 and the end of the SY 05-06. All teachers holding Level 2 and Level 3

certificates will be required to undergo 150 Continue Learning Units (CLUs) of professional development during a five-year time period in order to have their certificates renewed for five years, beginning with the date of issuance of the Level 2 or Level 3 license.

Tracking CLUs for Highly Qualified HOUSSE Option

The LEA is responsible for maintaining documentation for educators seeking the "highly qualified" status as defined by No Child Left Behind Act through the HOUSSE option (i.e., 90 CLUs) as evidenced by the:

a. identification of teachers in their employment using the HOUSSE option;

b. annual update on each identified teacher's status (progress) toward earning the required 90 CLUs.

Tracking CLUs for Purposes of Relicensure

An educator holding a Level 2 or Level 3 Professional license is responsible for maintaining documentation regarding the acquisition of 150 CLUs for purposes for relicensure and is responsible for completing the necessary paperwork every five years to renew his/her license. Upon submission of the relicensure application, the district is responsible for providing a signed assurance statement by LEA superintendent or designee with the required listing of earned CLUs as documented by the educator seeking relicensure.

Type B and A certificates shall be valid for life; and Level 2 and Level 3 certificates shall be valid for five years and renewable with 150 Continuing Learning Units (CLUs) of professional development. The period of validity is subject to the provision that the holder does not allow any period of five or more consecutive calendar years of disuse to accrue and/or the certificate is not revoked by the State Board of Elementary and Secondary Education acting in accordance with law. Type B, Type A, Level 2, and Level 3 certificates shall lapse for disuse if the holder thereof shall allow a period of five consecutive calendar years to pass in which he or she is not a regularly employed teacher for at least one semester (90 consecutive days).

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or 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? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., June 9, 2004, to Nina Ford, State 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: Validity, Reinstatement, Renewal, and Extension of Certificates

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These changes to current Bulletin 746 policy add language for the implementation of Continuing Learning Units (CLUs) and High Quality Professional Development. The adoption of this policy will cost the Department of Education approximately $700 (printing and postage) to disseminate the policy. There is the possibility the local school system will incur nominal costs to implement the policy. LEAs however, already receive Federal and 8(g) funds to implement high-quality Professional Development which is a requirement of the No Child Left Behind Act of 2001.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance

H. Gordon Monk
Staff Director
Legislative Fiscal Office

0404#065

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 996? Louisiana Standards for Approval of Teacher Education Programs? Teacher Preparation Program
(LAC 28:XLV.Chapters 9 and 11)

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 revisions to *Bulletin 996? Louisiana Standards for Approval of Teacher Education Programs*, referenced in LAC 28:I.905.A. The state is engaged in a partnership agreement with the National Council for the Accreditation of Teacher Education (NCATE), making NCATE standards fully operational for the accreditation of Louisiana institutions of higher education. This change to current Bulletin 996 policy deletes from the list of state standards those that are included within the NCATE standards to eliminate redundancy between the two sets of standards.

Title 28
EDUCATION
Part XLV. Bulletin 996? Standards for Approval of Teacher Education Programs
Chapter 9. Louisiana State Supplement for Teacher Preparation Program Approval
§901. Introduction

A. Each teacher preparation program seeking approval from the Louisiana State Board of Elementary and Secondary Education (LSBESE) is required to incorporate and adhere to the NCATE standards and to track closely the NCATE accreditation process. Each Louisiana university is required to develop a report describing how the unit is addressing the key state initiatives as identified and delimited in the Louisiana State Supplement for Teacher Preparation Program Approval. It is the responsibility of the teacher preparation program to prepare and present a clear description of how it is responding to each of the Louisiana Standards.

B. The rubrics, as listed, develop a continuum of quality regarding a beginning teacher's ability to meet effectively the requirements of the five domains in *The Louisiana Components of Effective Teaching*. The integration of the Louisiana Content Standards is to be evidenced in the teacher education curricula of each teacher education unit. Each teacher education program must show evidence of integration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1733 (August 2002), amended LR 30:

Chapter 11. The Components of Effective Teacher Preparation
Subchapter C. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1735 (August 2002), repealed LR 30:

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 or 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? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit comments until 4:30 p.m., June 9, 2004, to Nina Ford, State 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: Bulletin 996? Louisiana Standards for Approval of Teacher Education Programs? Teacher Preparation Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The State is engaged in a partnership agreement with the National Council for the Accreditation of Teacher Education (NCATE), making NCATE standards fully operational for the accreditation of Louisiana institutions of higher education. This change to current Bulletin 996 policy deletes from the list of state standards those that are included within the NCATE standards to eliminate redundancy between the two sets of standards. The adoption of this policy will cost the Department of Education approximately $700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley	H. Gordon Monk
Deputy Superintendent	Staff Director
Management and Finance	Legislative Fiscal Office

0404#066

NOTICE OF INTENT
Board of Elementary and Secondary Education

Bulletin 1508? Pupil Appraisal Handbook
(LAC 28:CI.Chapters 1-7)

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 the proposed adoption of *Bulletin 1508? Pupil Appraisal Handbook*. Bulletin 1508 will be printed in codified format as LAC Title 28, Part CI of the *Louisiana Administrative* Code. This document replaces any previously advertised versions. Bulletin 1508 is regarded as regulatory guidance for conducting pupil appraisal services in the state of Louisiana. The purpose of this action is to give Bulletin 1508 the regulatory weight necessary for in hearings and court procedures. It includes procedures, standards, and criteria for identifying children eligible for special education and/or related services. A general description of pupil appraisal services encompasses personnel, responsibilities, rights of students and parents, and timelines to be observed. Specific descriptions are provided for each exceptionality including the definition, screening, criteria, evaluation, and reevaluation procedures. This handbook is intended to comply with *Bulletin 1706: Subpart A? Regulations for Students with Disabilities (R.S.17:1941 et seq.), Bulletin 1706: Subpart B? Regulation for Gifted/Talented Students*

and the regulations governing the Individuals with Disabilities Education Act (IDEA), 34 CFR §300.309.

Title 28
EDUCATION
Part CI. Bulletin 1508? Pupil Appraisal Handbook
Chapter 1. Pupil Appraisal Services

§101. Description

A. Pupil appraisal services are an integral part of the total instructional program of school system. The purpose of pupil appraisal services is to assist students who have learning problems, adjustment problems, or other special needs by providing services to students, parents, teachers, and other school personnel. Some examples are provided below:

1. assistance to teachers in the development and implementation of behavioral and/or instructional interventions;
2. evaluation of students to determine whether they are exceptional and in need of special educational services;
3. consultation with parents, students, teachers, and other personnel on topics such as instructional or behavioral modifications, exceptional students, and student development;
4. staff development with school personnel on selected topics;
5. interpretation of evaluation findings to school personnel and parents;
6. direct support services to students with learning or behavioral problems;
7. related services to students with exceptionalities.

B. Pupil appraisal personnel are not limited to providing services solely to students referred for an individual evaluation. Many students experiencing learning problems can be helped through recommendations made by pupil appraisal personnel for use in the regular classroom, enabling the student to benefit from instruction in the general education curriculum and eliminating the need for a referral for an individual evaluation. Major functions of pupil appraisal personnel are to be child/student advocates and to assist students to remain in and profit from the regular educational program, whenever possible. When a student, as a result of an individual evaluation, qualifies for special educational services, pupil appraisal personnel will recommend services needed to assist the teachers and parents of the student in providing an appropriate special educational program.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§103. Qualified Examiners

A. Individuals with Disabilities Education Act (IDEA) and Louisiana Revised Statutes 17:1941 et seq. require that a student suspected of being exceptional receive a comprehensive multidisciplinary evaluation conducted by qualified examiners. Qualified examiners include pupil appraisal professionals certified by the State Department of Education and professionals from other agencies or in private practice, as described in this section.

1. Professional members of a pupil appraisal system include certified educational assessment teachers or diagnosticians; qualified school social workers; school nurses; adapted physical education teachers; speech/hearing/language specialists, speech/language pathologists, speech and hearing therapists; occupational therapists; physical therapists; audiologists; and certified school psychologists.

2. School systems shall regularly employ certified pupil appraisal personnel to conduct individual evaluations, but may also employ others as listed below:

a. qualified examiners available from the Department of Health and Hospitals, the Department of Public Safety and Corrections, the State Board Special Schools, or other public agencies;

b. private qualified examiners contracted to provide specialized assessments;

c. the student's teacher(s) as member(s) of the evaluation team;

d. a combination of the approaches listed above.

3. Regardless of the approach used for conducting individual evaluations, school systems retain full responsibility for the individual evaluation. Any failure by an employee or contractor to meet the requirements of this Handbook constitutes a failure by the school system to comply with *Bulletin 1706? Regulations for the Implementation of the Children with Exceptionalities Act*; R.S. 17:1941 et seq.

4. Professionals in private practice who provide evaluations for educational use must meet the standards of and comply with the rules and regulations set by their respective statutory professional boards. Certification by the State Board of Elementary and Secondary Education is not required for these persons; however, educational assessment teachers/diagnosticians or educational consultants are required to be certified by the Department of Education, since licensing for independent practice does not exist.

a. Professionals employed by another state agency must meet the professional standards of that agency and be qualified through training to conduct evaluations.

b. The results of an evaluation conducted by these professionals may be used by a school system in determining a student's eligibility for special educational services. It remains the school system's responsibility to ensure that the student is evaluated and that his or her eligibility determination has been in accordance with the requirements of this handbook.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§105. Pre-Referral Activities

A. Overview. A local educational agency (LEA) shall identify a student, enrolled in an educational program operated by the LEA, as suspected of having an exceptionality by the school building level committee (See *Clarification of Terms*.) coordinating and documenting results of the activities described below. For a child not enrolled, screening activities are to be conducted by Pupil Appraisal.

AUTHORITY NOTE: Promulgated in accordance with R.S.17: 1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR

§107. Screening

A. Educational Screening

1. A review of the results of sensory screening and of the student's educational and health history conducted by school personnel. The evaluation coordinator shall ensure that developmental screening is conducted by pupil appraisal personnel during the evaluation of preschool-aged children

2. A review of the student's academic and social performance, language and communication skills, performance on applicable statewide and district-wide assessment tests.

3. A teacher/parent communication concerning the child/student's specific problem or exceptional skills

4. At least one comprehensive and documented regular education intervention appropriate to the student's age and learning/behavioral problems. This activity is not required for a student suspected of having a speech or language impairment only, being gifted or talented, having a severe or low incidence impairment. It also is not required when there is substantial documentation that the student is likely to injure him/her self or others. Individual interventions may consist of, but are not limited to, techniques such as those listed below:

a. restructuring the classroom/school environment;

b. modification of the student's instructional program;

c. peer tutoring;

d. behavior management plans specific to the behavior of concern;

e. combined home/school behavior change program;

f. individual or group counseling/therapy;

g. remedial/compensatory education.

B. Sensory Screening

1. Hearing Screening

a. Hearing screening is to be considered current only if three conditions are true:

i. normal results have been obtained within the past 24 months for enrolled students and within the past 12 months for non-enrolled students; and

ii. no hearing problems currently are exhibited by the student; and

iii. no history of acute or chronic ear infections or persistent head colds are indicated in the health screening.

b. Child/student is identified as "at-risk" of having a hearing impairment should one of the following conditions exist:

i. failure to respond at 20db in one of 1000, 2000 or 4000 frequencies in at least one ear;

ii. failure to respond at 25db in two or more frequencies in at least one ear;

iii. middle ear pressure outside the range of -200 and +50 mm H_2O in either ear; or

iv. excessively stiff or flaccid tympanogram in either ear.

c. Children/students for whom specific audiometric test results cannot be obtained because of age or degree of involvement or for whom informal hearing test results do not rule out the possibility of a hearing loss should be considered "at risk." The extent of the child/student's hearing loss must be determined, using electrophysiological techniques when necessary.

2. Vision Screening

a. Vision screening is to be considered current only if three conditions are true:

i. normal results have been achieved within the past 24 months for enrolled students and within the past 12 months for non-enrolled children; and

ii. no vision problems are currently being exhibited by the student; and

iii. no history of eye infections, either acute or chronic, is indicated in the health screening.

b. A student's vision is considered "at risk" as dictated by the criteria in the manual of the instrument used for testing. Vision screening must include tests for three conditions:

i. acuity (near point and far point);

ii. color blindness;

iii. muscle balance.

c. If the required techniques are unsuccessful because of the student's immaturity, physical impairment, or mental ability, adapted methods of testing shall be used to determine the extent of the loss.

C. Health Screening

1. Health screening is conducted only when there is some concern with the health status of the student.

2. A student's health is considered "at risk" if through history, observation, and other procedures, health problems are noted.

D. Speech and Language Screening

1. Speech and language screening is conducted only on those students about whom there is some concern with communication skills.

2. The tasks, items, or tests used in screening should include a sampling to determine pertinent skills or conditions:

a. auditory processing skills (e.g., reception, discrimination);

b. articulation;

c. receptive and expressive language;

d. voice;

e. fluency;

f. oral motor functioning;

g. oral structure.

E. Motor Screening

1. Motor screening is accomplished through the observation of the student's gross and fine motor skills by the teacher responsible for providing physical education to the student and if necessary in consultation with the teacher responsible for classroom based activities. The evaluation coordinator shall ensure that motor screening is conducted by pupil appraisal personnel during the evaluation for students not enrolled in school. If the screening indicates any of the following conditions, then a motor and/or assistive technology assessment may be needed:

a. lack of strength, endurance, flexibility;

b. difficulty with balance activities;

c. failure to show opposition of limbs when walking, sitting, or throwing;

d. lack of control with ball skills;

e. difficulty in crossing the vertical midline;

f. poor sense of body awareness;

g. difficulty in remembering motor sequences;

h. ability to deliver written communications.

F. Assistive Technology Screening

1. Assistive Technology screening is accomplished through an observation of the student's skills and educational environment. An assistive technology assessment may be needed if the screening results indicate the student has difficulty in any of the following areas:

a. verbal communication;

b. written communication;

c. access to the curriculum;

d. working independently to complete educational activities.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§109. SBLC Determination Options

A. The School Building Level Committee (SBLC), with the parent as an invited participant, shall review and analyze all screening data, including intervention results, to determine the most beneficial option for the student. The Committee's options include, but are not limited to one of the following actions:

1. conduct no further action at this time;

2. conduct additional interventions;

3. refer the student to appropriate committee to conduct an evaluation to determine Section 504 eligibility;

4. refer the student to pupil appraisal personnel for support services;

5. refer the student to pupil appraisal personnel for an individual evaluation.

B. Parents must be provided a report or summary by the SBLC on the status of the referral intervention at least once each grading period until a decision is reached. If the parent(s) disagrees with the SBLC decision, the parent(s) must be provided a copy of his or her rights, which include a right to a due process hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§111. Referral Process

A. The School Building Level Committee's referral of the student to pupil appraisal personnel for an evaluation that determines a student's eligibility for services shall be made through the principal/designee and shall include documentation of all screening activities.

B. An immediate referral may be made to pupil appraisal services for an individual evaluation of any student suspected of a severe or low-incidence impairment; or based on substantial documentation by school building level personnel, of any student suspected of being likely to injure him/her self or others. Screening activities should be completed as part of the evaluation for these students.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§113. Parental Participation

A. Participation by parents is crucial in all meetings in which decisions are being made regarding their child in the area of identification and evaluation. Parents must be provided the opportunity to participate, at a minimum, in the meetings listed below:

1. the School Building Level Committee meeting in which a decision will be made whether to refer the student to pupil appraisal personnel for an individual evaluation;

2. the evaluation team meeting to consider the results of the data and determine eligibility;

3. the re-evaluation meeting of the IEP Team to determine the continued need for special education and related services.

B. For an initial evaluation or re-evaluation, the school system must obtain informed parental consent. Parents must be given a printed copy of their rights at the time of the request for parental consent. If the parent denies or fails to give informed consent for the individual evaluation, the LEA may appeal to the appropriate state court. If the parent withholds consent for the re-evaluation, the LEA may request a due process hearing following the procedures described in Chapter 5 of *Bulletin 1706*. A LEA may not use the parent's refusal to consent to deny the parent or student any other service, benefit, or activity of the LEA except as required by *Bulletin 1706*.

C. In the instance in which the parent fails to respond, informed parental consent need not be obtained for the re-evaluation, if the LEA can demonstrate that it has taken reasonable measures to obtain that consent.

D. A meeting may be conducted without a parent in attendance when the local educational agency is unable to convince the parents that they should attend. In this case, the LEA must have a record of its attempts to arrange a mutually agreed on time and place, such as detailed records of telephone calls made or attempted and the results of those calls; copies of correspondence sent to the parents and any responses received; and detailed records of visits made to the parent's home or place of employment and the results of those visits. Regardless, it is important that the parent be invited and included in the evaluation process. Documentation of efforts to involve the parent must be maintained.

E. Informed parental consent is not required before reviewing existing data as part of an evaluation or re-evaluation or before administering a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all students.

F. At the conclusion of the evaluation meeting where eligibility is determined, if the parents disagree with the consensus of the team, the LEA must afford the parents the right to challenge the evaluation report in accordance with procedural safeguards.

G. Parents must be given a copy of the evaluation report, the documentation of eligibility and their procedural safeguards, including the right to an Independent Education Evaluation. (See §115.H, Individual Evaluation, Independent Education Evaluation.)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§115. Individual Evaluation

A. Evaluation Process. The final determination of whether or not a student is an exceptional student, and the nature and extent of needed special educational and related services must be based on a comprehensive assessment, integrating information drawn from different assessment

sources. The depth of the assessment will vary based on the suspected exceptionality, review of screening information, and data collected during the evaluation process. All assessments shall be conducted in accordance with this Bulletin.

B. Definition. An *evaluation* is defined as a systematic process of review, examination, and interpretation of intervention efforts, test results, interviews, observations, relevant functional and developmental information including information from the parent and other assessment information relative to predetermined criteria. The product of the evaluation is a report containing professional interpretation of the child/student's performance within various settings, those factors affecting the student's performance, the nature and extent of the child/student's disability and/or exceptional ability, and the need for special education and related services, other interventions, or instructional adjustments. Evaluation is not synonymous with testing. The ultimate goal of the individual evaluation process is to provide information to educators and parents, which will facilitate future educational programming for the student. The evaluation for eligible students shall also assist in determining the content of the child/student's Individualized Education Program/Individualized Family Service Plan (IEP/IFSP), including information related to enabling the student to be involved in and progress in the general curriculum and activities; or for preschool children, to participate in appropriate activities.

C. Evaluation Objectives. The objectives of an individual evaluation are quite specific:

a. to determine the present levels of performance including performance in the general curriculum;

b. to determine whether the student is an individual with an impairment or condition which would result in the student being classified as exceptional;

c. to determine the nature and extent of such impairment or condition;

d. to determine the effect of the impairment or condition on the educational performance of the student in the general curriculum and activities;

e. to determine the need for special education and related services, including educational strengths and support needs of the student;

f. to recommend types of instruction, accommodations, additions, modifications, and related services to meet the assessed needs of the student that will enable him or her to participate, as appropriate, and in the general curriculum and activities.

D. Required Individual Evaluation

1. An initial individual evaluation shall be conducted whenever the student is not enrolled in special education and specific conditions exist.

a. Informed parental consent for the initial individual evaluation has been requested and received by the LEA. If a request was made for an evaluation during the time period in which the student is subject to disciplinary measures, the evaluation shall be conducted in an expedited manner as noted in Section J. Evaluation Timelines.

b. If the Local Education Agency (LEA) suspects that the student is exceptional, an evaluation must be conducted. If the LEA does not suspect that the student is exceptional, then it may refuse to conduct an evaluation. The SBLC, through interventions, may attempt to resolve the student's problems. When an LEA refuses to initiate an evaluation upon parental request, the parents must be given a written explanation of the reason for the decision according to the requirements listed in §504 of *Bulletin 1706* and provided a copy of their rights, which include the right to a due process hearing.

c. A final written decision has been issued by a court of competent jurisdiction requiring that an individual evaluation be conducted.

d. A written request for an individual evaluation has been issued by a state appointed hearing officer or appeals panel.

2. Individual Re-evaluation

a. An individual re-evaluation shall be conducted by the IEP Team and the evaluation coordinator if conditions warrant, but at least once every three years, whenever the student is enrolled in special education or when one of the following five events occurs.

i. The re-evaluation is requested in writing by the student's teacher or by the LEA's special education director/supervisor.

ii. The re-evaluation is requested in writing by the student's parent(s)- (a request for a reevaluation may be presented orally if the parent is illiterate in English or has a disability that prevents the production of a written statement).

iii. A significant change in educational placement of a student is proposed by the school system, the parent, or both.

iv. A final written decision has been issued by a court of competent jurisdiction requiring that an individual evaluation be conducted.

v. A student is suspected of no longer having a disability and no longer in need of services.

b. For eligible students with disabilities not currently receiving special education services, a re-evaluation shall be conducted unless refused by the parent(s).

3. A school system is not required to conduct a re-evaluation of an exceptional student who transfers with a current evaluation into its jurisdiction from another jurisdiction in Louisiana. Should the receiving LEA question the accuracy or the appropriateness of the student's classification, a re-evaluation may be initiated after an IEP has been developed and the student is receiving special educational services.

E. Evaluation Coordination

1. Upon identification of a student suspected of being exceptional and when conducting a re-evaluation, a qualified pupil appraisal staff member shall be designated as evaluation coordinator.

2. While this assignment is the responsibility of the individual designated by the school system to direct the pupil appraisal system, it is recommended that the evaluation coordinator be selected on a case-by-case basis by and from the pupil appraisal personnel assigned to the school. The determination of the evaluation coordinator shall be based upon the student's specific problems and other factors such as the expertise, caseload, and other responsibilities of each pupil appraisal staff member. Evaluation coordinator is not a

position; therefore, one individual shall not be routinely designated this responsibility.

3. Evaluation Coordinators. The pupil appraisal personnel certified by the Louisiana Department of Education may serve as evaluation coordinators in the school system:

a. educational diagnostician;
b. certified school psychologist;
c. speech/language pathologist;
d. qualified school social worker;
e. audiologist;
f. occupational therapist;
g. physical therapist;
h. school nurse.

4. Initial Responsibilities of the Evaluation Coordinator. Following receipt of the referral by pupil appraisal for an initial individual evaluation of an identified student, the evaluation coordinator shall ensure that within 10 business days specific activities occur.

a. an interview with the teacher(s) of enrolled students is conducted to clarify specific referral concerns and develop the initial evaluation questions; or

b. an interview with the parent (or other referral source) for students not enrolled in school is conducted to clarify specific referral concerns and develop the initial evaluation questions; and

c the student's parents are notified of the initial evaluation concerns and the type of evaluation to be conducted, and upon request, are provided advanced notice of the dates and places of assessments, and given the opportunity to participate in meetings including where the identification and eligibility determinations are made;

d. an informed parental consent is requested to conduct the individual evaluation, if not already received;

e. the student is referred to other appropriate agencies for screening/ assessment/evaluation services, when warranted. The student may also be entitled to services other than those available through the educational system.

5. Selection of Participating Disciplines. Upon receipt of informed parental consent for the evaluation, the evaluation coordinator shall ensure that at least two appropriate and qualified personnel representing different disciplines participate in the conduct of the individual evaluation (one of whom shall be the evaluation coordinator). Additional considerations shall apply.

a. If a low incidence sensory impairment is suspected, statewide assessment resources that meet state standards must be considered.

b. If the student is determined to be "at risk" through sensory, motor, or health screening, or if a sensory or other physical/health impairment is suspected, an appropriate assessment must be conducted by a physician or other qualified examiner with specialized training and experience in the diagnosis and treatment of the particular condition.

c. If a student is suspected of having only speech or language impairment, the student's teacher may serve as one of the two qualified personnel.

d. If the student has a documented health or physical impairment; has a history of head or spinal cord injury, seizures, diseases; needs assistance with activities of daily living; requires medications, health procedures and/or special diet; or has other health problems, the school nurse or other qualified personnel should be a member of the evaluation team.

e. If the student is suspected of having a specific learning disability, the student's regular education teacher (or if the child does not have a regular teacher, a regular classroom teacher qualified to teach a student of his or her age; or for a child of less than school age, an individual certified by the State Department of Education to teach a child of his or her age) must be a member of the multidisciplinary team. In no case shall the regular teacher replace the qualified pupil appraisal person.

6. Procedural Responsibilities. Throughout the initial evaluation of a student, the evaluation coordinator shall ensure that specific procedures are followed.

a. Each individual evaluation is based on a comprehensive compilation of information drawn from a variety of sources.

b. The evaluation is conducted in accordance with all requirements of this Handbook.

c. The student is evaluated in each area of suspected exceptionality.

d. Full and complete records collected or generated in connection with an individual evaluation are maintained in accordance with confidentiality requirements.

e. The results of any previously conducted specialist's evaluations are obtained through written parental authorization for the release of these records.

f. A meeting of the multidisciplinary evaluation team members, including the parent(s), is scheduled and conducted to determine whether or not the student is exceptional.

g. An integrated report describing the findings and recommendations of the evaluation process, along with the determination of eligibility, is prepared; and a copy is provided to the Supervisor of Special Education or designee.

h. The evaluation findings and recommendations are interpreted for the student's teacher(s).

i. A copy of the integrated report, including any dissenting opinions, along with the determination of eligibility, and an opportunity for an oral explanation of the findings and recommendations was provided to the student's parent(s) prior to the initial IEP/IFSP Team meeting.

j. A pupil appraisal staff member who participated in the evaluation is designated, when necessary, to attend the initial IEP/IFSP Team meeting to assist in the development of the IEP/IFSP.

F. The Individual Evaluation Process determines if a student is exceptional and must consist of all required components as specified for each exceptionality. However, it is permissible to determine a student to be non-exceptional on the basis of selected elements.

1. Initial Individual Evaluation components are specifically defined in the "Procedures for Evaluation" for each exceptionality:

a. screenings, if not previously conducted;

b. a review and analysis of all pre-referral activities and any preexisting evaluation data on the student;

c. an interview with the student;

d. a family interview conducted by the school social worker or other qualified personnel to determine the impact of educational, socioeconomic, environmental, cultural,

developmental, emotional, and/or health/medical factors on the student's educational performance;

e. an interview with the student's teacher(s) in order to specify and define behaviorally the areas of concern, determine the teacher's expectations for the student and class, and clarify any previous interventions;

f. observation and study of the student's physical condition, academic and/or social behaviors in daily activities conducted by pupil appraisal personnel;

g. a determination of the student's instructional level(s) and frustrational level(s) through a classroom-based assessment within the general education curriculum;

h. a functional behavioral assessment conducted or reviewed by a certified school psychologist, a qualified school social worker, or other appropriately trained personnel, when behavior is of concern;

i. an assessment of the student's health status conducted by a school nurse or other qualified personnel when health procedures, such as special diet, medication, blood glucose monitoring, seizure management, modified activities of daily living, and respiratory treatments, are required by the student;

j. the development and implementation of individual interventions, as defined below, conducted or directed by pupil appraisal personnel for a reasonable period of time [the intervention(s) must be relevant to the referral concern(s)]:

i. individual behavioral interventions must be designed to improve or determine whether sufficient improvement can be made in the student's behavior in the general education setting with regular education accommodations/modifications/adaptations;

ii. individual instructional interventions within the general education curriculum must be designed to determine how the student learns best and to determine his or her rate of acquisition, degree of comprehension, and extent of retention of curriculum materials, when compared to grade and teacher expectations and to that of his or her peers;

iii. the intervention requirement may be waived in circumstances in which the multidisciplinary team, after a thorough review and analysis, determines that previously conducted interventions meet the requirements as stated in the "Procedures for Evaluation" for designated exceptionalities. Interventions conducted prior to the initiation of the individual evaluation must include systematic measurement, pre and post tests, etc. in order to be substituted for the intervention requirement. All intervention results must be analyzed and included in the evaluation report. Individual interventions may consist of numerous techniques such as restructuring the classroom/school environment, peer tutoring, classroom-based reinforcement technique(s), behavioral interventions in the classroom, combined home/school behavioral change program, individual or group counseling/therapy, modification of the general curriculum and/or instructional approach, medication, other health procedures and health related services;

iv. systematic measurement of learning and/or social behaviors of concern conducted prior to and following implementation of the intervention, or prior to with repeated measures during the intervention;

v. an analysis of the results of the individual intervention(s);

k. educational or developmental, and/or adaptive behavioral assessments, as warranted;

l. psychological, social, and medical assessments;

m. speech and language assessments and/or assessment of the communication mode of the student;

n. an assistive technology assessment as warranted;

o. transitional needs addressed as part of all evaluations occurring after the 14th birthday of a student with disabilities (see §115.F.4);

p. other assessments (e.g., orientation and mobility, determined to be necessary by the multidisciplinary team.

2. If the primary determinant factor is a lack of instruction in reading or mathematics or limited English proficiency, a student may not be determined to be a student with a disability.

3. For re-evaluations, an appropriate evaluation coordinator will be assigned. Prior to the Re-Evaluation/IEP Team meeting, the specific activities will be conducted by designated individuals.

a. The evaluation coordinator, or other designated personnel, will notify parents, teachers, related service personnel, an official designee of the school system, and other appropriate personnel of the re-evaluation; and will follow prescribed procedures:

i. obtain informed parental consent (see Parental Participation);

ii. gather information regarding educational history, including all previous evaluation reports;

iii. review or conduct a classroom-based assessment to determine the student's involvement and progress in the general education curriculum;

iv. review or conduct a functional behavioral assessment, if behavior is a concern;

v. conduct at least one structured observation before the scheduled IEP Team meets for the scheduled re-evaluation;

vi. ensure that any re-evaluation requirements for the existing exceptionality(ies) are completed;

vii. ensure that transitional needs are addressed as part of all re-evaluations occurring after the 14th birthday for students with disabilities;

viii. collect any additional pertinent information;

ix. document and disseminate results of the re-evaluation to the supervisor of special education or designee, parent(s) and school.

b. The special education teacher responsible for coordinating the student's IEP will collect the mandated information:

i. current vision and hearing screening results;

ii. performance toward meeting IEP goals, benchmarks or objectives;

iii. current standardized test results;

iv. performance in the general curriculum;

v. discipline records and behavior intervention plans;

vi. progress reports from all related services personnel, including the Individual School Health Services Plan;

vii. transition from school to post-school activities for students age 14 or older;

viii. other information, as deemed appropriate.

c. The parents/family will be asked to provide relevant information applicable to their child:

i. concerns/observations regarding their student's educational program;

ii. any current private evaluation data, if applicable;

iii. any current school and medical/health reports, if applicable;

iv. information regarding transition needs from school to post-school activities for students age 14 years or older;

v. Any other information, as deemed appropriate.

4. Transitional needs must be addressed as part of all re-evaluations occurring after the 14th birthday of a student with disabilities. In addressing the needed transitional services of the student, the Re-evaluation/IEP Team must provide answers to four questions.

a. What are the strengths and support needs of the student that affect future planning?

b. What are the expressed post school occupational interests of the student?

c. What vocational experience(s) has the student had, and what was the outcome?

d. Does the student have physical limitations and/or health/medical needs, and if so, what are they?

5. Re-evaluations conducted for reasons other than the third year mandate (e.g., change to a more restrictive placement, concern over the student's progress) must be specific to the referral questions and must generally include the same components specified in Subsection F, Individual Evaluation Process, Paragraphs 1. and 2.

6. For students currently enrolled in Special Education who are referred to pupil appraisal personnel as a result of concerns dissimilar to the present classification, initial procedures for each suspected exceptionality and re-evaluation procedures for the existing classification must be conducted in order to develop an integrated report.

7. For re-evaluations conducted because of disciplinary action that will result in a significant change of placement of the student, a manifestation determination review must have been conducted. (See Manifestation Determination Review in the Appendix.)

8. Re-evaluations must be conducted before determining that a student is no longer a student with a disability and no longer in need of special educational services.

9. The Re-evaluation/IEP Team shall perform specific functions.

a. It shall review existing evaluation data on the student as described above. The team may conduct this review without a meeting.

b. It shall decide, upon the basis of that review, whether there are sufficient data to determine the four concerns listed below:

i. whether the student continues to have an exceptionality;

ii. the present levels of performance and educational needs of the student;

iii. whether the student continues to need special education and related services;

iv. whether any additions or modifications to the education program and related services are needed to enable the student to meet measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general curriculum.

c. It shall sign and date the re-evaluation report agreeing to this determination that there is sufficient data to answer yes to §115.F.9.b.i-iv.

d. If the team determines no additional data are needed to determine that the student still has a disability, the parent must be informed of this determination, of the reasons for this determination, and of the right to request an assessment to determine whether, for the purposes of special educational services, their child continues to be a student with a disability.

e. It shall determine, that if additional tests or evaluation data are needed to determine §115.F.9.b.i-iv above, what data will be collected, who will collect the data, and when the team will reconvene to complete the report to determine the above. Once the team reconvenes, steps §115.F.9.a-c will be followed.

f. The re-evaluation report must be disseminated to the LEA's Supervisor of Special Education or designee, parent(s) and the school.

G. Protection in Evaluation Procedures

1. Tests and other evaluation materials used to assess a student are selected and administered so as not to be discriminatory on a racial or cultural basis and are provided and administered in the student's native language or other mode of communication, unless it is clearly not feasible to do so.

2. Materials and procedures used to assess a student with limited English proficiency are selected and administered to ensure that they measure the extent to which the student has an exceptionality and needs special educational services, rather than measuring the student's English language skills.

3. A variety of assessment tools and strategies are used to gather relevant functional and developmental information about the student, including information provided by the parent and information related to enabling the student to be involved in and progress in the general curriculum (or for a preschool child, to participate in appropriate activities), that may assist in determining whether the student is a student with an exceptionality and may influence the content of the student's IEP.

4. Standardized tests administered to a student have been validated for the specific purpose for which they are used; they are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests. If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of test administration) must be included in the evaluation report.

5. Tests and other evaluation materials include those tailored to assess specific areas of educational need, not merely those designed to provide a single general

intelligence quotient. In no event shall IQ scores be reported or recorded in any individual student's evaluation report or cumulative folder. Whenever it is necessary to conduct an individual intellectual assessment as a component of an individual evaluation, the examiner shall review all available information regarding the student, the student's family, and the socio-cultural background of the student to determine whether the evaluation results have been unduly influenced by such factors.

6. Tests are selected and administered to ensure that- if administered to a student with impaired sensory, manual, or speaking skills - the test results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

7. No single procedure is used as the sole criterion for determining whether a student is a student with an exceptionality and for determining an appropriate educational program for the student.

8. The student is assessed in all areas related to the suspected exceptionality, including if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

9. In evaluating each student with an exceptionality according to established procedures, the evaluation is sufficiently comprehensive to identify all of the student's special education and related services needs, whether or not commonly linked to the exceptionality category in which the student has been classified.

10. Technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors, must be selected.

11. Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student must be selected.

H. Independent Educational Evaluation

1. The parents of a student with an exceptionality have a right to obtain an Independent Educational Evaluation (IEE) of the student. The LEA shall provide to the parent, upon request for an IEE, information about where an independent educational evaluation may be obtained and the criteria by which it must be conducted.

a. *Independent Educational Evaluation (IEE)* means an evaluation conducted by a qualified examiner who is not employed by the LEA responsible for the education of the student in question.

b. *Public Expense* means that the LEA either shall pay for the full cost of the evaluation or shall ensure that the evaluation is otherwise provided at no cost to the parent.

c. To avoid unreasonable charges for Independent Educational Evaluations (IEEs), an LEA may establish maximum allowable charges for specific tests. The maximum shall be established so that it allows parents to choose among the qualified professionals in the area and eliminates unreasonably excessive fees. The LEA shall allow parents the opportunity to demonstrate unique circumstances to justify an IEE that falls outside the district's criteria.

2. An IEE is provided at public expense to the parents if:

a. the parent disagrees with an evaluation provided by the LEA, or

b. a hearing officer requests an IEE as part of a due process hearing.

3. When an LEA is notified in writing by the parent that the parent disagrees with the LEA's educational evaluation, the LEA has ten business days following the receipt of the notice to initiate a due process hearing to show that its evaluation is appropriate. If the LEA does not initiate a due process hearing within the ten business days, the IEE shall be at public expense.

a The request for an IEE may be presented orally if the parent is illiterate in English or has a disability that prevents the production of a written statement.

b. If, in a due process hearing, the hearing officer finds that the LEA's evaluation is appropriate, the parent shall still have the right to an independent evaluation, but not at public expense.

c. If a parent requests an IEE, the LEA may ask for the parent's reasons why he or she objects to the public evaluation. However, the explanation by the parent may not be required and the LEA may not unreasonably delay either providing the IEE at public expense or initiating a due process hearing to defend the public evaluation.

4. An IEE obtained at public expense shall meet the same criteria established by these regulations and by the *Pupil Appraisal Handbook*. The LEA may not impose conditions on obtaining an IEE, other than the criteria contained in the *Pupil Appraisal Handbook*..

5. If the parents obtain an IEE at private expense and it meets the criteria in the *Pupil Appraisal* Handbook, the results of the evaluation shall be considered by the LEA in any decision made with respect to the provision of a free appropriate public education to the student; and they may be presented as evidence at a hearing as described in §507 of these regulations regarding the student.

a. Privately Obtained Independent Educational Evaluation Initiated by Parents

i. When an IEE initiated by parents at their expense, is received by the pupil appraisal office, specific procedures must be followed.

(a). Within 10 business days of receipt, the evaluation must be reviewed to determine whether procedures in this handbook were followed and whether the student meets the criteria for eligibility of the assigned exceptionality.

(b). Based on the IEE, if it is determined that the student is eligible for services, an IEP/IFSP Committee meeting must be held within 30 calendar days.

(c). Based on the IEE, if it is determined that the evaluation procedures did not meet the requirements of this handbook or that the student did not meet the eligibility requirements for the assigned exceptionality, the parents must be informed of the decisions made and the actions proposed by the school system.

ii. The IEE must be considered in any decisions made with respect to the provision of a free appropriate public education. The LEA is not required to use the IEE obtained at private expense as its only criteria for deciding the content of the student's special education program.

6. The LEA is not required to use the IEE obtained at private expense as its only criteria for deciding the content of the student's special education program.

I. Evaluation Report and Determination of Eligibility

1. The final written report for initial evaluations must be a compilation of the data gathered during the individual evaluation process. The data collected by pupil appraisal personnel must be integrated and written in language that is clear to the individuals who will use it.

a. The integrated written report of the initial evaluation of an identified student must contain the following minimal requirements:

i. the reason(s) for referral;

ii. the individual evaluation questions or statements of concern;

iii. a description of the evaluation procedures, including interventions, used to address each evaluation question, and an analysis of the results;

iv. a description of the student's present level(s) of functioning in relationship to the general curriculum;

v. a description of the student's relative strengths and support needs;

vi. a description of the educational needs of the student ranked in order of importance;

vii. a description of the impairment or condition that enables the student to be classified as eligible for special education and related services;

viii. information sufficient to permit a determination of the validity of the evaluation data for the total evaluation process to include certain criteria:

(a). compatibility of the child to the examiner(s);

(b). suitability of the evaluation environment;

(c). extraordinary conditions;

ix. an explanation of any discrepancies between formal test results and the student's customary behaviors and daily activities, or of any discrepancies among evaluation results;

x. recommendations for types of services necessary to meet the educational needs of the student to participate, as appropriate, in the general curriculum:

(a). supplementary aids and services;

(b). instrumental techniques, additions, modifications, or adaptations;

(c). classroom/behavioral management strategies;

(d). specially designed instruction;

(e). adapted physical education;

(f). assistive devices or services;

(g). the type of related services necessary for the student to benefit from special education;

xi. a brief summary of the evaluation findings;

xii. explanation of all extensions of the evaluation timelines;

xiii. names of assessment personnel participating in the evaluation;

xiv. signatures of assessment personnel whose conclusions are accurately reflected in the report:

(a) if a participating appraisal person disagrees with the conclusion(s) in the integrated report, that person may submit a separate signed dissenting opinion stating the disagreement, giving supporting data and conclusion(s) prior to the IEP/IFSP meeting;

xv. the documentation of the Determination of Eligibility with the evaluation team members and the parent assigning the applicable exceptionality, when appropriate.

b. The final written report for a re-evaluation must include documentation necessary to determine that the student continues to have a disability and to write an appropriate IEP. The report must contain, at a minimum, specific components:

i. the reason for the re-evaluation;

ii. the documentation of notification, participants, and dissemination;

iii. documentation of a review of existing data on the student:

(a). previous evaluations and educational records;

(b). information provided by the parents;

(c). student progress toward meeting IEP annual goals and short-term objectives and benchmarks;

(d). current classroom-based assessments and observations in appropriate settings;

(e). observations by teachers and related service providers;

iv. based on the review in iii above, documentation verifying certain data:

(a) sufficient data to determine whether the student continues to have an exceptionality;

(b) sufficient data to determine the student's present levels of performance and educational needs;

(c) sufficient data to determine whether the student continues to need special education and related services;

(d) sufficient data to determine whether any additions or modifications to the education program and related services are needed to enable the student to meet measurable annual goals set out in the IEP and to participate, as appropriate, in the general curriculum;

v. if there are not sufficient data to verify the above, documentation leading to that determination must be included in the written report;

vi. when additional data are determined to be needed, based on the review in 4 above, the results of those findings shall be included in the report. (When a different exceptionality is being considered, initial criteria shall be followed and reported, in supporting documentation, as part of the written report.);

vii. when the team determines that no additional data are needed to determine the student continues to have a disability, documentation must be provided that the parent was informed of this determination, of the reasons for this determination, and of the parent's right to request additional assessments to determine whether, for the purposes of special educational services, the student still has a disability;

viii. conclusions of the re-evaluation;

ix. diagnosed impairment(s) or condition(s);

x. exceptionality;

xi. additional services needed as documented in the report;

xii. an explanation of and documentation for all extensions of the re-evaluation time line;

xiii. signatures of the Re-evaluation/IEP Team whose conclusions are accurately reflected in the report:

(a) if a participating team member disagrees with the conclusion(s) in the report, that person may submit a separate signed dissenting opinion stating the disagreement, giving supporting data and conclusion(s).

J. Evaluation Timelines

1. Pre-evaluation activities as listed under "Initial Responsibilities" of the evaluation coordinator must be conducted within 10 business days after receipt of the referral by the pupil appraisal office for an individual evaluation.

2. A request shall be made by the school system for informed parental consent to conduct an initial individual evaluation no later than 10 business days after the receipt of the referral by Pupil Appraisal.

3. The evaluation report for an initial evaluation must be completed and disseminated within 60 business days of receipt of parental approval unless a justified extension of time is required as specified.

4. Re-evaluation reports must be completed within 60 business days of parent notice. Triennial re-evaluations must be completed on or before the third-year anniversary of the previous evaluation. Justified extensions are permitted for re-evaluations, except for end-of-school-year extensions during the mandated triennial re-evaluation.

a. The evaluation is considered complete when a written, integrated, signed evaluation report has been disseminated to the Supervisor/Director of Special Education or to the assigned designee. The date of completion must be documented on the file copy of the final evaluation report and/or in the student's folder.

5. An extension of time of no more than 30 business days is permitted under certain circumstances.

a. The evaluation coordinator and the student's teacher(s) determine that the intervention process should be extended.

b. Unusual circumstances, such as illness of the student, illness of a member of the student's family, or of the pupil appraisal person working with the student, interrupt the completion of the individual evaluation.

c. The student has received an individual evaluation within the past three years, but the report has not yet been received by pupil appraisal services.

6. An extension of time of no more than 60 business days is permitted under certain conditions.

a. Specialized diagnostic assessment and/or medical assessment services not available in the school system are necessary for the completion of the individual evaluation.

b. A natural disaster or catastrophe interrupts the completion of the evaluation. These extensions must be requested from and be approved by the State Department of Education, Division of Special Populations.

7. The maximum number of days of the extension described in 5 and 6 above shall not exceed the duration of the circumstance(s) necessitating the extension.

8. Whenever informed parental consent for an initial evaluation of a student who is suspected of being exceptional is received within 30 business days of the end of the school year, the evaluation coordinator may postpone the initiation of the evaluation until the first week of the next school year, or initiate the evaluation if it appears that the requirements of 436 of *Bulletin 1706* can be met. If the decision is to postpone or if the process, once initiated, cannot be completed, parents shall be given full and effective notice. If the process once initiated cannot be completed prior to the end of the school year, the evaluation may be completed during the next school year. The total time allotted for the completion of the evaluation must not exceed 60 business days, excluding that period during the summer when the regular school program is not in session.

9. Whenever the initial evaluation process or a re-evaluation (not a triennial) is begun within 59 business days of the end of the school year and the evaluation cannot be completed prior to the end of the school year, the completion of the evaluation may be postponed until the next school year. The total time for the completion of the evaluation must not exceed 60 business days, excluding that period during the summer when the regular school program is not in session.

10. Parents must be provided written notification and explanation of any extension to the individual evaluation process timeliness.

11. Any extensions of the evaluation time line must be explained and documented in the individual evaluation report.

12. An initial evaluation, conducted on a student during the time period in which the student is subjected to disciplinary measures, must be conducted in fewer than 60 business days without exception or extensions.

13. For toddlers transitioning from Part C to Part B, the evaluation must be completed and the IEP developed for implementation on all eligible students by their third birthday.

14. For students with a classification of Developmentally Delayed, no evaluation timeline extension is allowed when the extension extends beyond their ninth birthday.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

Chapter 3. Criteria For Eligibility, Screening, And Evaluation Procedures For Each Exceptionality

§301. Introduction

A. This Section of the Handbook is intended as a guide for pupil appraisal personnel when conducting individual evaluations of students suspected of being exceptional and in need of special education and related services, and as a reference for persons requiring specific information regarding the determination of eligibility for special educational services.

B. The criteria for eligibility describes the minimal data that must be obtained in order to determine whether the student is a student with an exceptionality and in need of special educational services. The Procedures for Evaluation specify minimal areas and depth of data collection, and, at times, suggest the professional who is usually most qualified to gather and interpret the data in a certain area.

1. Any deviations or exceptions from this Handbook shall be explained in the integrated written evaluation report.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§303. Definition of Exceptional

A. For a child to be considered an exceptional child under the Regulations for Implementation of the Children with Exceptionalities Act (R.S. 17:1941 et seq.), Bulletin 1706, two conditions must exist.

1. First, the assessment data must indicate that either:

a. an impairment is present; or

b. a requisite, such as exceptionally high abilities, is present.

2. Second, an assessment of the current and past learning environment and the educational progress of the child must demonstrate a need for special educational services. Only when both of the above are true is the child considered exceptional.

B. Misclassification can occur in evaluating children by assuming either:

1. all children with exceptionalities need special educational services; or

2. all children with special educational needs are exceptional.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§305. Autism

A. Definition. *Autism* means a developmental disability significantly affecting verbal and nonverbal communication and social interaction; generally evident before age three that adversely affects a student's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a student's educational performance is adversely affected primarily because the student has an emotional disturbance. A student who manifests the characteristics of autism after age 3 could be diagnosed as having autism if the criteria are satisfied.

1. There may be coexisting conditions/associated features that may include, but are not limited to cognitive delays, seizure activity, depression, anxiety, obsessive-compulsive disorders, Tourette Syndrome, Fragile X Syndrome, tuberous sclerosis, pica, allergies, self-injurious behaviors, sleeping and toileting problems, etc.

2. Asperger's Disorder, Pervasive Developmental Disorder-Not Otherwise Specified (PDD-NOS), Rett Syndrome, or Childhood Disintegrative Disorder should not be excluded from the classification if the criteria for autism are met.

B. Criteria For Eligibility. The multidisciplinary team may determine that the student displays autism if disturbances identified in all three of the categories below exist and adversely effect a student's educational performance. These disturbances may be characterized by delays, arrests, and/or regressions in typical skill development, and/or precocious skill acquisition. While autism is behaviorally defined, manifestation of behavioral characteristics may vary along a continuum ranging from mild to severe.

1. Communication: A minimum of two items must be documented:

a. disturbances in the development of spoken language;

b. disturbances in conceptual development (e.g., doesn't understand time or WH-questions; good reader/poor comprehension; knows multiplication facts but can't use them functionally; does not appear to understand directional concepts, but can read a map and find the way home; repeats multi-word utterances, but can't process the semantic-syntactic structure);

c. marked impairment in the ability to attract another's attention, to initiate, or to sustain a socially appropriate conversation;

d. disturbances in shared joint attention (acts used to direct another's attention to an object, action, or person for the purposes of sharing the focus on an object, person or event);

e. stereotypical and/or repetitive use of vocalizations, verbalizations and/or idiosyncratic language (made-up language);

f. echolalia with or without communicative intent (may be immediate, delayed, or mitigated);

g. marked impairment in the use and/or understanding of nonverbal (e.g., eye-to-eye gaze, gestures, body postures, facial expressions) and/or symbolic communication (e.g., signs, pictures, words, sentences, written language);

h. prosody variances including, but not limited to, unusual pitch, rate, volume and/or other intonational contours;

i. scarcity of symbolic play.

2. Relating to people, events, and/or objects: A minimum of four items must be documented:

a. difficulty in developing interpersonal relationships;

b. impairments in social and/or emotional reciprocity, or awareness of the existence of others and their feelings;

c. lack of/or minimal spontaneous seeking to share enjoyment, achievements, and/or interests with others;

d. absent, arrested, or delayed capacity to use objects/tools functionally, and/or to assign them symbolic and/or thematic meaning;

e. difficulty generalizing and/or discerning inappropriate versus appropriate behavior across settings and situations;

f. lack of/or minimal varied spontaneous pretend/make-believe play and/or social imitative play;

g. difficulty comprehending other people's social/communication intentions (e.g., doesn't understand jokes, sarcasm, irritation), interests, or perspectives;

h. impaired sense of behavioral consequences (e.g., no fear of danger, injury to self or others).

3. Restricted, repetitive and/or stereotyped patterns of behaviors, interests, and/or activities: A minimum of two items must be documented:

a. unusual patterns of interest and/or topics that are abnormal either in intensity or focus (e.g., knows all baseball statistics, TV programs, collection of light bulbs);

b. marked distress over change and/or transitions (e.g., substitute teacher, moving from one activity to another);

c. unreasonable insistence on following specific rituals or routines (e.g., taking the same route to school,

flushing all toilets before leaving a setting, turning on all lights upon returning home);

d. stereotyped and/or repetitive motor movements (e.g., hand flapping, finger flicking, hand washing, rocking, spinning);

e. persistent preoccupation with an object or parts of objects (e.g., taking magazine everywhere he/she goes, playing with a string, spinning wheels on toy car).

C. Procedures for Screening

1. Pre-referral Activities shall be followed.

2. Screening for sensory processing difficulties may be warranted if the student exhibits behavioral symptoms that result in marked behavioral or social difficulties, disruption in development of self-help skills, or fine and gross motor coordination. Symptoms (examples listed below) should be clearly documented. If the results of the screening demonstrate that sensory processing difficulties appear to interfere with the student's ability to learn, an occupational therapy assessment should be considered:

a. visual symptoms: for example, squinting in normal light, use of peripheral vision, poor eye contact, staring, prolonged regarding of hands or objects, attention to illumination, close scrutiny of visual details, over arousal to extraneous visual stimuli;

b. auditory symptoms: for example, hands over ears, acting as if deaf, preoccupation with certain sounds, repetitively making certain sounds or words, abnormal behavioral responses to sound (e.g., screaming, self-injurious behavior, aggression);

c. tactile symptoms: for example, prolonged rubbing of surfaces, does not cry when injury occurs, does not tolerate certain food textures, has to wear the same clothing all the time, tags in clothing may bother the student, cannot tolerate heat/humidity, tactile defensiveness (e.g., does not want to be touched), self-injury (e.g. pinching, biting, head banging, scratching), avoidance of tactile media (e.g., glue, sand, water);

d. vestibular (balance) symptoms: for example, prolonged swinging, whirling without dizziness, preoccupation with spinning objects, difficulty ascending/descending stairs, clumsiness, avoidance of playground equipment or repetitive and obsessive use of playground equipment, may demonstrate extreme fear regarding movement, may experience motion sickness very easily;

e. olfactory (smell) and gustatory (taste) symptoms: for example, repetitive sniffing of people/objects/food, licking of inedible objects, mouthing objects, specific and/or limited food preferences;

f. proprioceptive (movement) symptoms: for example, posturing, darting/lunging movements, hand flapping, and grimaces;

g. motor planning difficulties: for example, child is unable to develop or recall an organized plan for completing a sequence of motor actions; may need excessive repetition and prompts to learn simple tasks such as hand washing, may know the individual steps in isolation, but unable to link them together to form an integrated whole; may have difficulty using two hands together to complete a task; may appear clumsy or awkward;

h. attention/arousal difficulties: for example, child may have difficulty maintaining appropriate level of attention/arousal needed for demands of task, may hyperfocus at times and then have difficulty shifting attention.

D. Procedures For Evaluation. The individual evaluation should include at a minimum an appraisal of the student's level of development in cognitive, social, communication, sensori-motor processing, and motor areas, as appropriate:

1. a comprehensive assessment conducted by a certified school psychologist, licensed psychologist, or physician, trained or experienced in the evaluation of students with developmental disabilities or other qualified examiner;

2. behavioral observation of the student in interaction with others such as parents, teachers, and peers in the student's customary environments;

3. a physical examination by a licensed physician for students "at risk" for health difficulties;

4. an assessment of the student's hearing by an audiologist using, if possible, techniques that do not require overt or voluntary responses from the student;

5. a speech and language assessment conducted by a speech/language pathologist trained and experienced in the evaluation of children with developmental disabilities. (If necessary, an augmentative/alternative communication assessment should be conducted):

a. consideration should be given to other assistive technology, devices and/or services that would be educationally necessary for the student to benefit from his or her educational curriculum;

6. a family interview conducted by a school social worker or other qualified pupil appraisal staff member to determine the impact of social, cultural, developmental, and/or health factors on the student's difficulties:

7. an educational assessment conducted by an educational diagnostician or other qualified pupil appraisal staff member which shall include an assessment of the student's academic or pre-academic strengths, support needs, and learning styles;

8. an occupational therapy assessment when deemed necessary by the evaluation coordinator and the multidisciplinary team;

9. other assessments as determined to be appropriate and necessary by the evaluation coordinator and the multidisciplinary team.

E. Re-evaluation. The re-evaluation of students classified with autism shall include at a minimum all requirements under Individual Evaluation Process: Re-evaluation and any other assessments deemed appropriate by the Re-evaluation/IEP Team.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§307. Deaf-Blindness

A. Definition. *Deaf-Blindness* is concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accommodated in

special education programs solely for students with deafness or students with blindness.

B. Criteria For Eligibility. Evidence of 1, 2, and 3 are required:

1. vision impairment-any of the following:

a. measured corrected visual acuity is 20/70 or less in the better eye, and/or a previous chronic condition has interfered, is interfering, or will interfere with the visual learning mode;

b. cortical blindness in the presence of normal ocular structure as verified in the report of an ophthalmologist, pediatrician, or pediatric neurologist;

c. field of vision that subtends an angle of 20 degrees or less in the better eye;

d. other blindness resulting from a documented medical condition;

2. hearing impairment:

a. sensorineural hearing loss of 25 decibels (ANSI) or more across the speech frequencies in the better ear with amplification and/or a previous chronic condition that has existed which has interfered, is interfering, or will interfere with the auditory learning mode;

3. educational need:

a. educational determination that the student's combined vision and hearing losses are such that he/she cannot be served appropriately solely by the special education program for either visual impairments or hearing impairments.

C. Procedures For Screening. Pre-referral Activities shall be followed.

D. Procedures For Evaluation. The minimum evaluation shall consist of the following:

1. an assessment of the student's vision conducted by an ophthalmologist or optometrist. When the impairment results from a documented medical condition, it shall be verified in the report of an ophthalmologist, pediatrician, or pediatric neurologist. When the condition is progressive or unstable, the need for a yearly eye examination will be documented in the integrated report;

2. an assessment of the student's hearing conducted by an audiologist or otologist;

3. an orientation and mobility screening conducted to assess the student's ability to travel around in his or her environment. (There is a suggested checklist in the back of this document.) Based on the results of the screening, an assessment conducted by a qualified orientation and mobility instructor may be warranted;

4. an educational assessment conducted by an educational diagnostician or other qualified pupil appraisal staff member to verify that the student's combined vision and auditory losses are such that he cannot be served appropriately by a program for students with visual or hearing impairments and to identify the specific strengths and support needs of the student;

5. a family interview conducted by a school social worker or other qualified pupil appraisal staff member to include an investigation of family history of Usher Syndrome or other contributing medical anomalies;

6. a speech and language assessment conducted by a speech/language pathologist trained or experienced in the evaluation of students with developmental disabilities;

7. each LEA shall notify State Deaf-blind Census of all students who have both hearing and visual impairments.

E. Re-Evaluation. The re-evaluation of students classified with deaf-blindness shall include the following procedures:

1. all requirements of the Individual Evaluation Process: Re-evaluation Section;

2. an assessment of the student's hearing conducted by an audiologist or otologist, if warranted;

3. an eye examination conducted by an ophthalmologist or an optometrist when the student's impairment is progressive or unstable. If the required annual eye examination has been completed, these results may be reviewed:

a. an eye examination conducted by an ophthalmologist or an optometrist need not occur when the student's eye condition is permanent and there is written documentation indicating such from the ophthalmologist or optometrist attached to the evaluation report. When conditions associated with the visual impairment are suspected, the Re-evaluation/IEP Team should request an eye examination;

4. any other assessments deemed appropriate by the Re-evaluation/IEP Team.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§309. Developmental Delay

A. Definition. *Developmental Delay* is a disability in which students, ages 3 through 8, are identified as experiencing developmental delays in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development or adaptive development.

1. A student may be classified categorically, if it is determined through the evaluation process, that the student has a specific impairment that needs special education and related services.

2. The use of the Developmental Delay category is optional to the local educational agencies. LEAs that choose not to use this category must classify categorically.

B. Criteria For Eligibility. The student must be between the ages of 3 through 8 years, functioning significantly below age expectancy in one or more of the following areas: Criterion-Based Measures? A Delay of 25 percent or more, Norm-Based Measures? A Standard Score 1.5 standard deviations below the mean:

1. physical development, which includes:

a. gross motor;

b. fine motor;

c. sensory (visual or hearing);

d. sensory-motor;

2. social, adaptive or emotional development, which includes:

a. play (solitary, parallel, cooperative);

b. peer interaction;

c. adult interaction;

d. environmental interaction;

e. expression of emotions;

3. cognitive or communication development, which includes:

a language (receptive or expressive);

b. concrete, abstract;

c. perceptual discriminations;

d. categorization and sequencing;

e. task attention;

f. memory;

g. essential developmental or academic skills, as appropriate.

C. Procedures for Screening

1. General Screening Procedures in this Handbook: Sections 1, 2, 3, 4, and 5 shall be followed.

2. A developmental screening must be conducted by persons trained in such procedures.

D. Procedures For Evaluation.

1. At a minimum the evaluation shall include all areas outlined in the criteria for eligibility assessed to the appropriate depth and shall included the following procedures:

a. an examination conducted by a physician not only when the child appears to have a severe medical condition but also when deemed necessary by the evaluation coordinator. When the medical report indicates the student has a health or physical impairment requiring health technology, management or treatments including a special diet or medication, or needs assistance with activities of daily living, the school nurse or other qualified personnel will conduct a health assessment;

b. an educational assessment for school-aged students conducted by an educational diagnostician or other qualified pupil appraisal staff member to determine the student's level of performance in the general curriculum; the assessment should include informal and formal assessment, an analysis of the appropriateness of the curriculum; and a classroom-based assessment of academic strengths and concerns; or

c. a functional/developmental assessment for preschool-aged children conducted by an educational diagnostician or other qualified pupil appraisal staff member who has appropriate training in the evaluation of early childhood disorders and/or development to determine not only levels of performance but also include an analysis of the child's participation in appropriate activities;

d. a family interview conducted by a school social worker or other qualified pupil appraisal staff member to determine the impact of social, cultural, developmental and/or health factors on the student's difficulties;

e. a speech/language assessment conducted by a speech/language pathologist when a speech or language impairment is suspected;

2. The LEA shall notify State Deaf-blind Census of all students who have both hearing and visual impairments.

E. Re-Evaluation. The re-evaluation of students classified Developmental Delay shall include the following procedure:

1. all requirements specified under the Individual Evaluation Process: Re-evaluation Section and any other assessments deemed appropriate by the Re-evaluation/IEP team;

2. a re-evaluation conducted prior to the student's ninth birthday to declassify or to classify categorically, including all initial evaluation procedures for the suspected exceptionality.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§311. Emotional Disturbance

A. Definition. *Emotional Disturbance* means a condition characterized by behavioral or emotional responses so different from appropriate age, cultural, or ethnic norms that they adversely affect performance. Performance includes academic, social, vocational or personal skills. Such a disability is more than a temporary, expected response to stressful events in the environment; is consistently exhibited in two different settings; and persists despite individualized intervention within general education and other settings. Emotional disturbance can co-exist with other disabilities.

1. This category may include children or youth who:

a. exhibit seriously impaired contact with reality, and severely impaired social, academic, and self-care functioning; whose thinking is frequently confused; whose behavior may be grossly inappropriate and bizarre; and whose emotional reactions are frequently inappropriate to the situation; or

b. manifest long-term patterns of inappropriate behaviors, which may include, but are not limited to, aggressiveness, anti-social acts, refusal to accept adult requests or rules, suicidal behavior, developmentally inappropriate inattention, hyperactivity, or impulsiveness; or

c. experience serious discomfort from anxiety, depression, or irrational fears and concerns whose symptoms may include, but are not limited to, serious eating and/or sleeping disturbances, extreme sadness, suicidal ideation, persistent refusal to attend school or excessive avoidance of unfamiliar people, maladaptive dependence on parents, or non-organic failure to thrive; or

d. have a DSM, (current edition) diagnosis indicating a severe mental disorder, which requires 24-hour care and supervision, such as, but not limited to, psychosis, schizophrenia, major affective disorders, reactive attachment disorder of infancy or early childhood (non-organic failure to thrive), or severe conduct disorder.

2. This classification does not include children/youth who are socially maladjusted, unless it is determined that they also meet the criteria for Emotional Disturbance.

B. Criteria For Eligibility. Criteria 1, 2, and *3 must all be met.

*Criterion 3 is a pre-requisite for classification in the educational environment.

1. Functional Disability. There is evidence of severe, disruptive and/or incapacitating functional limitations of behavior characterized by at least two of the following limitations:

a. the inability to exhibit appropriate behavior routinely under normal circumstances;

b. a tendency to develop physical symptoms or fears associated with personal or school problems;

c. the inability to learn or work, a limitation that cannot be explained by intellectual, sensory, or health factors;

d. the inability to build or maintain satisfactory interpersonal relationships with peers and adults;

e. a general pervasive mood of unhappiness or depression;

f. conduct characterized by the lack of behavioral control or adherence to social norms, which is secondary to an emotional disorder.

2. Duration

a. The impairment or pattern of inappropriate behavior(s) has persisted for at least one year; or

b. there is substantial risk that the impairment or pattern of inappropriate behavior(s) will persist for an extended period; or

c. there is a pattern of inappropriate behaviors that are severe and of short duration.

3. Educational Performance. There is evidence that all of the following exist.

a. Educational performance must be significantly and adversely affected as a result of behaviors that meet the definition of emotional disturbance.

b. Behavioral patterns, consistent with the definition, exist after educational assistance and/or counseling.

c. Behavior patterns, consistent with the definition, persist after individualized, systematic intervention.

i. Documented evidence must show that results of the intervention(s) with systematic measurement of the behaviors indicate failure of the intervention to significantly modify the problem behavior. *Significantly Modify* means that a change in behavior is demonstrated to such a degree that, with continuation of the intervention program by the regular teacher and/or other support personnel, the student could continue in the regular education program.

ii. This requirement for a pupil appraisal intervention may be waived under two conditions.

(a). The multi-disciplinary team, after a thorough review and analysis of previously conducted interventions, has determined that the intervention(s) meet the requirements as stated in the Procedures for Evaluation.

(b). It is the judgment of the multi-disciplinary team that all possible interventions and adjustments in the regular program have been exhausted or are impractical because of the severity of the student's behavior.

C. Procedures For Screening

1. Pre-referral Activities shall be followed.

2. Screening procedures shall include a determination of the following:

a. current out-of-home placement;

b. risk of out-of-home placement;

c. risk of out-of-school placement; and

d. the need for multi-agency services.

3. Children determined to be out-of-home, "at risk" of out-of-school, or out-of-home placement and who also need multi-agency services must be considered for referral to any existing interagency case review process.

4. Documentation of any previously conducted interventions and their results must be provided.

5. Comprehensive screening reports? which follow the procedures listed here, supplied by a public agency (e.g. Education, Mental Health, Social Services) or a qualified private service provider? may be used to determine the need for further evaluation.

6. When the behavior of the student poses an immediate danger to him/herself or others, an immediate referral for an individual evaluation shall be submitted to Pupil Appraisal Services.

D. Procedures for Evaluation. An individual evaluation for emotional disturbance must consist of all required components as specified below:

1. a review and analysis of the results of current vision, hearing, health and motor screening;

2. a review and analysis of the student's educational, social, and medical history;

3. an interview with the child/youth;

4. a psycho-social assessment conducted by a social worker or other qualified pupil appraisal staff member, which includes an interview with the child/youth's parent(s), or care giver;

5. an interview with the child/youth's teacher in order to specify and define behaviorally the areas of concern, to determine the teacher's expectations for the student and class, and to clarify previous intervention(s);

6. observation and study of the child/youth's learning and/or social behaviors in daily activities;

7. a review of the appropriateness and effectiveness of the documented intervention(s), and the conduct of additional intervention(s), if deemed necessary. Suspension/ expulsion cannot be used as an intervention;

8. an educational assessment conducted by an educational diagnostician or other qualified pupil appraisal staff member to determine the student's level of performance in the general education curriculum; the assessment should include informal and formal assessment, an analysis of the appropriateness of the curriculum, and a classroom-based assessment of academic errors or a developmental assessment, when appropriate;

9. If a specific agency requires an IQ test when a mental disability is suspected, that the agency must also conduct an assessment of adaptive behavior:

a. the State Department of Education does not require a test of intelligence in order for a student to be classified with emotional disturbance

10. a comprehensive psychological assessment conducted by a certified school psychologist or a licensed psychologist, or psychiatric assessment conducted by a psychiatrist (The assessment shall include, at a minimum, an appraisal of the child/youth's cognitive, emotional, and social functioning including self-concept.);

11. an assessment of functional behavior in major life activities;

12. other assessment procedures determined to be necessary by the multidisciplinary team.

E. Re-Evaluation. The re-evaluation of students classified with an emotional disturbance shall include, at a minimum, the following procedures:

1. all requirements specified under the Individual Evaluation Process: Re-evaluation Section;

2. a determination of the following:

a. current out-of-home placement;

b. risk of out-of-home placement;

c. risk of out-of-school placement; and

d. the need for multi-agency services;

3. a psycho-social assessment conducted by a school social worker or other qualified examiner, which includes an interview with the child/youth's parents or caregiver. The family interview component of the psycho-social assessment should determine whether the behavior(s) of concern occur(s) out-of-school, and if so, when, where, under what circumstances and should identify the parental efforts to deal with the problem behavior;

4. assessments of the student's cognitive, emotional, and social functioning, and a review of related services provided the LEA and/or other agencies;

5. any other assessments deemed appropriate by the Re-evaluation/IEP Team.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§313. Gifted

A. Definition. *Gifted Children and Youth* are students who demonstrate abilities that give evidence of high performance in academic and intellectual aptitude.

B. Procedures for Screening

1. Sensory screening shall be conducted whenever vision or hearing problems are suspected.

2. Each school system shall develop and implement procedures for screening students suspected of being gifted. The screening criteria shall not exceed the criteria for eligibility.

3. At least two regular school staff members? such as the principal or designee, teachers, counselors, pupil appraisal personnel, and other professional staff? shall conduct a review of the screening information with the student's teacher and determine whether to evaluate or provide modifications for enrichment purposes.

C. Criteria for Eligibility

1. Preschool and Kindergarten: A student at the preschool or kindergarten level must meet criterion a or b.

a. The student shall obtain a score at least three standard deviations above the mean an individually administered test of intellectual abilities appropriately standardized on students of this age and administered by a certified school psychologist or licensed psychologist.

b. The student shall obtain a combined score of at least ten when scores are entered into the cells of the Standard Matrix with at least four points earned on the aptitude/intelligence test.

2. Grades 1-12. Criterion 1, 2, or 3 must be met.

a. The student shall obtain a score of at least two standard deviations above the mean on an individually or group administered test of intellectual abilities appropriately standardized on students of this age and administered by a certified school psychologist or licensed psychologist.

b. The student shall obtain a score of at least seven when scores are entered into the cells of the Standard Matrix, at least two points of which are earned on the aptitude/intelligence test.

c. The student shall obtain a score of at least six when scores are entered into the cells of the Standard Matrix, and a recommendation for classification as gifted is made by pupil appraisal personnel who conducted the evaluation of the student in accordance with the evaluation procedures.

D. Procedures for Evaluation. All tests and other procedures used to evaluate students referred for gifted assessments shall be standardized, nondiscriminatory, and appropriate for the cultural background of the students being evaluated. Few, if any, standardized assessment instruments adequately control for the effect of such factors as environmental impoverishment, cultural differences, or the lack of opportunities to learn. It is imperative that such factors be closely attended to in any individual or group assessment of students suspected of being gifted, and given serious consideration by pupil appraisal and special education personnel when determining whether or not a student is gifted. Any significant discrepancies between formal test results and the student's customary behaviors and daily activities, or any discrepancies among test results should be examined closely during the evaluation and addressed in the evaluation report. The recommendation of the multidisciplinary team either to classify or not to classify a student as gifted must be based on a thorough evaluation of the student's abilities.

1. Preschool and Kindergarten: The individual evaluation shall include at a minimum the following procedures:

a. an individual assessment of intellectual abilities administered by a certified or licensed psychologist using an instrument or instruments appropriately standardized for students of this age;

b. an individual assessment of reading and mathematical skills using an achievement test standardized at the first grade level, conducted by an educational diagnostician or other qualified pupil appraisal member;

c. an interview with the student's parent(s) conducted by a school social worker or other qualified examiner;

d. an interview with the teacher(s) of enrolled students.

2. Grades 1 through 12. An individual evaluation shall include at a minimum the following procedures:

a. an assessment of intellectual abilities, individually or group administered, by a certified or licensed psychologist using nondiscriminatory assessment procedures;

b. additional assessments in the areas listed below, individually or group administered, by qualified pupil appraisal personnel. The regular district-wide test scores shall not be used in the Standard Matrix as part of the individual evaluation:

i. total reading;

ii. total mathematics;

c. an interview with the student's parent(s) by a school social worker or other qualified examiner;

d. an interview with the student's teacher(s);

e. for students who obtain at least six points in the matrix, further assessment conducted by pupil appraisal personnel, including at a minimum:

i. a review of the student's educational performance and all screening data with the student's teacher(s);

ii. observation of the student's behavior during and performance on at least one structured normed or criterion referenced test such as, but not limited to:

(a). intelligence;

(b). aptitude;

(c). achievement;

(d). problem solving;

(e). creativity.

E. Standard Matrix

Points	1	2	3	4
	1.0 = 1.5 SD	1.5 = 2.0 SD	2.0 + SD	2.5 +SD (Preschool & K)
Aptitude/ Intelligence				
Achievement in Reading				
Achievement in Math				

F. Re-Evaluation. A re-evaluation must be conducted at least every three years. For those students whose only exceptionality is gifted, the re-evaluation may be accomplished through the IEP process at the time of an IEP review meeting, not through the Re-evaluation/IEP process. Informed parental consent of the re-evaluation must be sent to parents prior to the IEP Review meeting in which a re-evaluation will be conducted. If no concerns are evident with the student's current program, no evaluation report is required. This discussion will be documented on the IEP form, and a copy of the IEP form will be forwarded the to pupil appraisal personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§315. Hearing Impairment

A. Definition. *Hearing Impairment* means an impairment in hearing, whether permanent or fluctuating, that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, and that it adversely affects a student's educational performance. It includes students who are deaf or hard of hearing or who have unilateral hearing loss or high frequency hearing loss.

1. *Deafness* is a permanent hearing loss with an unaided pure tone average of 70dB (ANSI) or more in the better ear at 500, 1,000, and 2,000 Hz. The hearing loss is so severe as to limit significantly the use of the auditory channel for processing linguistic information, with or without amplification.

2. Hard of Hearing

a. *Permanent or Fluctuating Hearing Loss* is a hearing loss with an unaided pure tone average in the better ear at 500, 1,000, and 2,000 Hz between 25 and 70 dB (ANSI). The hearing loss is severe enough to be considered educationally significant, as it will to varying degrees impact the normal development of speech and language skills and/or interfere with learning new information through the auditory channel.

b. *Unilateral Hearing Loss* is a permanent hearing loss with an unaided pure tone average in the poorer ear at 500, 1,000, and 2,000 Hz of 40 dB (ANSI) or greater. The hearing in the better ear is within the normal range (pure tone average of 20 dB or better at 500, 1,000, and 2,000 Hz). The hearing loss in the poorer ear is of sufficient severity to be considered educationally significant because it may affect the person's ability to process linguistic information, particularly in the presence of background noise.

c. *High Frequency Hearing Loss* is a bilateral hearing loss with an unaided pure tone average of 40 dB or greater at any two of the following frequencies (2,000, 3,000, 4,000 or 6,000 Hz). The hearing loss is educationally significant because it is of sufficient severity to impact the person's ability to process linguistic information, particularly in the presence of background noise.

B. Criteria For Eligibility. Criteria 1 and 2 must be met.

1. There must be audiological evidence that the student is either deaf, hard of hearing, has a unilateral hearing loss, or has a high frequency hearing loss consistent with the definition.

2. There must be evidence of hearing loss that adversely affects a student's educational performance

C. Procedures for Screening

1. Pre-referral Activities shall be followed.

D. Procedures for Evaluation:

1. sensory screening, if not previously conducted;

2. an interview with the student conducted in the student's primary mode of communication;

3. a family interview conducted by a school social worker or other qualified pupil appraisal staff member;

4. an interview with the student's teacher(s);

5. observation of the student's academic and/or social behaviors in daily activities conducted by pupil appraisal personnel;

6. an assessment of the student's hearing sensitivity and acuity with and without amplification conducted by a physician with specialized training or experience in the diagnosis and treatment of hearing impairments and/or a licensed audiologist;

7. the above interviews in 2, 3, and 4 should include the following discussions:

a. the student's language and communication needs;

b. opportunities for direct communication needs with peers and professional personnel in the student's language and communication mode;

c. academic levels;

d. the full range of needs, which include opportunities for direct instruction in the student's language and communication mode;

8. the Statewide Assessment Center for students with hearing impairments may be used as a resource to conduct the evaluation;

9. a speech and language assessment of receptive and expressive language to include the student's language level and communication skills conducted by a speech/ language pathologist. The examiner should be fluent in the child's primary mode of communication or should utilize the services of a qualified interpreter/ transliterator, when necessary;

10. an educational/developmental assessment conducted by an educational diagnostician or other qualified pupil appraisal member for the purpose of identifying academic and environmental adjustments needed;

11. the LEA should notify State Deaf-blind Census of all students who have both hearing and visual impairments.

E. Re-Evaluation. The re-evaluation of students classified with hearing impairments shall include the following procedures:

1. all requirements specified under the Individual Evaluation Process: Re-evaluation Section of this Handbook, including vision screening and the following assessments and information;

a. assessments to determine receptive and expressive language levels and academic levels of functioning in relationship to the general curriculum must be reviewed/or administered to determine progress;

b. the information from the teacher(s) must determine opportunities for direct communication and instruction with peers and professional personnel in the student's language and communication mode;

2. if appropriate, an assessment by a physician with specialized training or experience in the diagnosis and treatment of hearing impairments and/or licensed audiologist, of the student's hearing sensitivity and speech understanding with and without amplification, when possible;

3. a comprehensive vision examination conducted by an ophthalmologist or an optometrist at least once during the student's educational career (as soon as the student is of sufficient age for valid test results to be obtained, i.e., approximately 6 years) in order to screen for the possible presence of any progressive eye disease. Students who are considered "at risk" for Usher Syndrome shall receive a comprehensive vision examination by an ophthalmologist or optometrist by the age of 14 years.

a. "At-risk" indicators are the following:

i. immediate family member(s) diagnosed with Usher Syndrome;

ii. difficulty seeing in low lighting situation;

iii. glare sensitivity;

iv. difficulty seeing people/objects in visual periphery;

v. difficulty in focusing on objects/written word;

vi. balance problems.

b. Students identified through screening, as "at risk" shall be referred to an ophthalmologist for assessment to document the presence of any disease process.

4. Any other assessments deemed appropriate by the Re-evaluation/IEP Team.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§317. Mental Disability

A. Definition. *Mental Disability* refers to substantial limitations in present functioning with the following characteristics:

1. significantly subaverage intellectual functioning, existing concurrently with:

a. related limitations in two or more of the following applicable life skill areas:

i. communication;

ii. home living;

iii. community use;

iv. health and safety;

v. leisure;

vi. self-care;

vii. social skills;

viii. self-direction;

ix. functional academics;

x. work;

2. mental disability manifested before age 18;

3. reflects a level of academic or pre-academic functioning below chronological age expectation;

4. in every case, determinations of a mental disability shall be based on an assessment of a variety of factors including educational functioning, adaptive behavior, and past and current developmental activities (e.g., indices of social, intellectual, adaptive, verbal, motor, language, emotional, and self-care development for age);

5. for all students meeting the classification of Mental Disabilities as defined in 1-3, the degree of impairment should be specified:

a. the measured intelligence of a student with a Mental Disability? Mildly Impaired generally falls between two and three standards deviations below the mean, and the assessed adaptive behavior falls below age and cultural expectations and generally within the same deviation as the intellectual functioning;

b. the measured intelligence of a student with a Mental Disability? Moderately Impaired generally falls between three and four standard deviations below the mean, and the assessed adaptive behavior falls below age and cultural expectations and generally within the same deviation as the intellectual functioning;

c. the measured intelligence of a student with a Mental Disability? Severely Impaired generally falls between four and five standard deviations below the mean, and the assessed adaptive behavior falls below age and cultural expectations and generally within the same deviation as the intellectual functioning;

d. the measured intelligence of a student with a Mental Disability? Profoundly Impaired generally falls below five standard deviations below the mean, and the assessed adaptive behavior falls below age and cultural expectations, generally within the same deviation as the intellectual functioning.

B. Criteria For Eligibility. Criteria 1 through 5 must all be met.

1. The learning problems are not due primarily to such factors as follow:

a. other disabling conditions;

b. lack of educational opportunity;

c. emotional stress in the home or school;

d. difficulty adjusting to school;

e. curricular change;

f. a temporary crisis situation;

g. environment, cultural differences, or economic disadvantage.

2. After an assessment of each area listed in §317.A.1 above, there must be evidence of two or more limitations in life skills that occur within the context of community environments typical of the individual's age peers and that are indexed to the person's individualized needs for support. These limitations should be comparable to the assessed level of intellectual functioning.

3. The overall adaptive behavior functioning is comparable to the assessed level of intellectual functioning.

4. The assessed level of intellectual functioning is two or more standard deviations below the mean.

5. Evidence exists that the student's academic or pre-academic skill functioning is comparable to the assessed level of intellectual ability.

6. Evidence exists that the deficits occurred during the developmental period.

C. Procedures for Screening

1. Pre-referral Activities shall be followed.

D. Procedures For Evaluation

1. The Individual Evaluation shall include the following procedures.

a. sensory screening, if not previously conducted;

b. a review of the student's educational, social, and medical and health history, including the attendance record;

c. an interview with the student;

d. an interview with the student's teacher in order to specify and define behaviorally the areas of concern, determine the teacher's expectations for the student and class, and clarify any previous interventions;

e. a family interview conducted by a school social worker or other qualified pupil appraisal staff member to determine the student's strengths and the impact of social, cultural, developmental, and/or health factors on the student's difficulties;

f. observation and study of the student's academic and/or social behaviors in daily activities;

g. the development and implementation of individual interventions conducted or directed by pupil appraisal personnel;

i. the intervention requirement may be waived only in circumstances in which the multidisciplinary team, after a thorough review and analysis, determines that previously conducted interventions met the requirements as stated in the Procedures for Evaluation for designated exceptionalities. Interventions conducted prior to the initiation of the individual evaluation must have included such procedures as systematic measurement, pre and post tests, etc., in order to be substituted for the intervention requirement. All intervention results must be analyzed and included in the evaluation report;

h. a review and analysis of the results of the individual intervention(s) including systematic measurement of academic and/or social behaviors of concern conducted prior to and following implementation of the intervention, or prior to implementation with repeated measures during the intervention;

i. an educational assessment conducted by an educational diagnostician or other qualified pupil appraisal staff member to determine the student's level of performance in the general education curriculum. The assessment should include informal and formal assessments; a classroom based assessment, an estimate or determination of instructional and frustrational levels, and an analysis of how the student's disability affects access to and progress in the general education curriculum;

j. an assessment of adaptive behavior;

k. an assessment in the ten life skill areas at A1a., and a determination of support needs for each limitation. (The Levels of Support chart in the appendix could be used as a tool in making these determinations.);

l. a psychological assessment conducted by a certified school psychologist, which includes the following procedures:

i. an appraisal of the information obtained as a result of the observation of the student in the classroom;

ii. an appraisal of emotional or cultural factors that may be causing or contributing to the student's problems;

iii. a standardized nondiscriminatory individual assessment of intellectual functioning:

(a) whenever it is necessary to conduct an individual intellectual assessment as a component of an individual evaluation, the examiner shall review all available information regarding the student, the student's family, and the socio-cultural background of the student to determine whether the intellectual assessment results have been unduly influenced by such factors;

m. an assessment of language development and/or communication skills conducted by a speech/language pathologist or other qualified pupil appraisal staff member;

n. other assessment procedures deemed necessary by the multidisciplinary team.

E. Re-evaluation.

1. The re-evaluation of students classified as having a Mental Disability shall consist of the following procedures:

a. all requirements specified under the Individual Evaluation Process: Re-Evaluation Section of this Handbook;

b. for students classified with a mental disability? mildly impaired, an adaptive behavior assessment must be conducted;

c. any other assessments deemed appropriate by the Re-evaluation/IEP Team.

2. Since no measures are perfectly reliable and since so many factors can affect an individual's performance at a given time, it is imperative that all factors assessed when initially identifying a student with a mental disability be reconsidered during the re-evaluation. This requirement does not necessarily mean automatic "retesting."

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§319. Multiple Disabilities

A. Definition. *Multiple Disabilities* means concomitant impairments (such as mental disabilities/blindness, orthopedic impairments? deafness, autism? orthopedic impairments, or emotional disturbance? mental impairments), the combination of which causes such severe educational problems that these students require specific special educational services to meet the needs which result from both/all impairments. The term does not include individuals with deaf-blindness.

B. Criteria for Eligibility. Criteria 1 and 2 must both be met.

1. The full criteria for eligibility as determined by the evaluation of two or more of the conditions as described in this Handbook must be met. Each of these conditions must additionally be to a severe or moderate degree.

2. The individual cannot be educated in a special educational program specifically designed for one of the impairments with additional related services for the other condition.

C. Procedures for Screening

1. Requirements specified for the appropriate exceptionalities shall be followed.

D. Procedures for Evaluation

1. Procedures for evaluation appropriate to each suspected disabling condition as described in this handbook must be followed.

2. The evaluation must indicate and the pupil appraisal examiners must certify that the disabling conditions are each moderate or severe.

3. An educational assessment conducted by an educational diagnostician or other qualified pupil appraisal staff member indicating not only what educational strategies are needed but also how the severity of the student's needs leads to the classification of Multiple Disabilities.

E. Re-Evaluation

1. The re-evaluation of students classified as having multiple disabilities shall be conducted according to the requirements for re-evaluation for each condition that led to the classification and any other assessments deemed appropriate by the Re-evaluation/IEP Team.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§321. Orthopedic Impairment

A. Definition. *Orthopedic Impairment* means a severe orthopedic impairment that adversely affects a student's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.); impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.); and impairments from other causes (e.g., Cerebral Palsy, amputations, and fractures or burns that cause contractures).

B. Criteria For Eligibility. Criterion 1 or 2, and 3 must be met:

1. muscular or neuromuscular disabilities that significantly limit the ability to move about, sit, or manipulate the materials required for learning.

2. skeletal deformities or abnormalities that affect ambulation, posture, and body use necessary in schoolwork;

3. impaired environmental functioning that significantly interferes with educational performance.

C. Procedures for Screening

1. Pre-Referral Activities, Excluding Requirement. 1d. shall be followed.

D. Procedures for Evaluation. The minimal evaluation shall include the following procedures:

1. a report of a medical examination conducted within the previous 12 months from a physician qualified by training or experience to assess the student's orthopedic or neurological problems. The report must provide a description of the impairment, any medical implications for instruction or physical education, and must indicate adaptive equipment and support services necessary for the student to benefit from the general curriculum, as appropriate. When the medical report indicates the student has a health or physical impairment requiring health technology, management, or treatments including a special diet or medication or that the student needs assistance with activities of daily living, the school nurse or other qualified personnel will conduct a health assessment;

2. an assessment of the need for adapted physical education shall be conducted;

3. when deemed necessary by the evaluation coordinator and the multidisciplinary team, an Occupational Therapy assessment or Physical Therapy assessment, or both shall be conducted;

4. an educational assessment conducted by an educational diagnostician or other qualified pupil appraisal member that identifies educational and environmental adjustments needed;

5. a family interview conducted by a school social worker or other qualified pupil appraisal member to clarify parental concerns about the student's educational needs and to identify health care providers and/or community resources used in caring for the child's medical or physical needs.

E. Re-evaluation. The re-evaluation of students classified as having an Orthopedic Impairment shall include the following procedures:

1. all requirements specified under the Individual Evaluation Process: Re-Evaluation Section;

2. a medical evaluation as specified under the Procedures for Evaluation Section;

3. any other assessments deemed appropriate by the Re-evaluation/IEP Team.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§323. Other Health Impairment

A. Definition. *Other Health Impairment* means having limited strength, vitality, or alertness? including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment that is due to chronic or acute health problems? and may include such conditions as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes, attention deficit hyperactivity disorder, or attention deficit disorders; and adversely affects a student's educational performance.

B. Criteria for Eligibility

1. Criterion a or b, and c must be met. To be placed in this category, the individual shall possess certain impairments:

a. disabilities that result in reduced efficiency in schoolwork because of temporary or chronic lack of strength, vitality, or alertness, including such conditions as those specified in the definition;

b. a severe disability that substantially limits one or more of the student's major life activities (that is, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working);

c. impaired environmental functioning that adversely interferes with his or her educational performance;

2. These disabilities must be other than those defined as disabling conditions in this handbook.

C. Procedures for Screening

1. Pre-referral activities shall be followed.

D. Procedures for Evaluation

1. The minimal evaluation for a student shall include the following procedures:

a. a report of a medical examination, conducted within the previous 12 months from a physician qualified by

training or experience to assess the student's health problems, giving not only a description of the impairment but also any medical implications for instruction and physical education. When the medical report indicates the student has a health condition requiring health technology, management or treatments including a special diet or medication or that the student needs assistance with activities of daily living, the school nurse or other qualified personnel will conduct a health assessment;

b. an educational assessment conducted by an educational diagnostician or other qualified pupil appraisal member that identifies educational and environmental adjustments needed;

c. a family interview conducted by a school social worker or other qualified pupil appraisal member to clarify parental concerns about the student's educational needs and to identify health care providers and/or community resources used in caring for the student's medical or physical needs;

d. any additional assessments deemed necessary by the evaluation coordinator and the multidisciplinary team.

E. Re-evaluation. The re-evaluation of students with other health impairments shall include the following procedures:

1. all requirements specified under the Individual Evaluation Process: Re-evaluation Section;

2. a medical evaluation as specified under the Procedures for Evaluation Section;

3. any other assessments deemed appropriate by the Re-evaluation/IEP Team.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§325. Specific Learning Disability

A. Definition. *Specific Learning Disability* means a severe and unique learning problem as a result of significant difficulties in the acquisition, organization, or expression of specific academic skills or concepts. These learning problems are typically manifested in school functioning as significantly poor performance in such areas as reading, writing, spelling, arithmetic reasoning or calculation, oral expression or comprehension, or the acquisition of basic concepts. The term includes such conditions as attention deficit, perceptual disabilities, process disorders, minimal brain dysfunction, brain injury, dyslexia, developmental aphasia, severe language disorder, or sensory-motor dysfunction, when consistent with these criteria. The term does not include students who have learning problems that are primarily the result of visual, hearing, or motor impairments, mental disabilities, an emotional disturbance, environmental deprivation, cultural difference, lack of instruction in reading or mathematics, limited English proficiency or economic disadvantage.

B. Criteria for Eligibility

1. Criteria a through c must all be met.

a. The learning problems are not due primarily to certain factors:

i. lack of educational opportunity;

ii. emotional stress in the home or school;

iii. difficulty adjusting to school;

iv. lack of appropriate instruction;

v. other disabling conditions;

vi. environmental deprivation or economic disadvantage;

vii. cultural differences;

viii. lack of motivation; and/or

ix. temporary crisis situations.

b. There must be evidence that the student? after receiving supportive and remedial regular educational assistance, and after receiving intervention services specific to the identified learning problems? still exhibits a specific learning disability consistent with the definition.

c. There must be evidence of a severe discrepancy between achievement and ability as demonstrated by a difference of at least one standard deviation between the student's strongest and weakest performance in academic areas described as follows:

i. a relative academic strength as demonstrated by performance no more than one standard deviation below the mean in grades 3 through 12 or one-half standard deviation below the mean in grades K through 2 for the grade level appropriate for the student's chronological age in one or more of the areas listed under 2 below. The relative academic strength must, in addition, be at least one standard deviation higher than the lowest academic area identified in 2 below;

ii. an academic deficit or deficits, as demonstrated by performance greater than one and one-half standard deviations below the mean in grades K through 2, or two standard deviations below the mean in grades 3 through 12 for the grade level appropriate for the student's chronological age in one or more of the following areas:

(a). basic reading skills;

(b). reading comprehension;

(c). mathematics calculations;

(d). mathematics reasoning;

(e). oral expression;

(f). listening comprehension;

(g). written expression;

(h). other age-appropriate developmental skill areas (pre-academic) when more appropriate for kindergarten students;

2. The multidisciplinary team may use its professional judgment to determine whether a specific learning disability exists, when an academic strength is indicated by a preponderance of the data collected as a part of the evaluation. These data must include, at a minimum, the implementation and analysis of classroom-based assessment and teacher interview(s); it may include any other data collected through the results of individual interventions, the results of the student observation, classroom formal or informal procedures. Whenever the multidisciplinary team decides to use these data to classify a student with a Specific Learning Disability, a full explanation and justification must be included in the evaluation report.

C. Procedure for Screening

1. Pre-referral activities shall be followed.

D. Procedures for evaluation:

1. sensory screening, if not previously conducted;

2. a review of the student's educational, social, and medical history, including the attendance record;

3. an interview with the student;

4. the student's regular teacher must serve on the team in order to specify and define behaviorally the areas of

concern, to determine the relationship of the behavior to the student's academic functioning, and to clarify any previous interventions:

a. if the student does not have a regular teacher, a regular classroom teacher qualified to teach a student of his or her age; or for a student of less than school age, an individual certified by the State Department of Education to teach a student of his or her age must serve on the team;

5. a family interview conducted by a school social worker or other qualified pupil appraisal member to determine the impact of educational, environmental, socio-economic, cultural, developmental, emotional, and/or special diet, medications or other health factors on the student's current performance;

6. observation and study of the student's academic performance in the regular classroom and social behaviors in daily activities. In the case of a child of less than school age or out of school, the child shall be observed in an environment appropriate for a child of that age;

7. the development and implementation of individual interventions conducted by Pupil Appraisal personnel for a reasonable period of time:

a. the intervention requirement may be waived only in circumstances in which the multidisciplinary team, after a thorough review and analysis, determines that previously conducted interventions met the requirements as stated in the Procedures for Evaluation for designated exceptionalities. Interventions conducted prior to the initiation of the individual evaluation must have included such procedures as systematic measurement, pre and post tests, etc. in order to be substituted for the intervention requirement. All intervention results must be analyzed and included in the evaluation report;

8. a review and analysis of the results of the individual intervention(s) including systematic measurement of academic and social behaviors of concern conducted prior to and following implementation of the intervention(s), or prior to implementation with repeated measures during the intervention(s);

9. an assessment conducted to identify and describe the student's primary learning disability. This assessment shall include the following procedures:

a. an assessment of the student's learning problems within the educational context and with respect to the referral problem;

b. an appraisal of emotional or cultural factors that may be causing or contributing to the student's problems;

c. an assessment of the student's achievement motivation;

10. an educational assessment conducted by an educational diagnostician or other qualified pupil appraisal member to determine the student's level of performance in academic areas. The assessment must include a classroom-based assessment of the general curriculum, informal and formal assessments, an estimate or determination of instructional and frustrational levels, and an analysis of how the student's disability affects access to and progress in the general curriculum;

11. a psychological assessment conducted by a certified school psychologist, when necessary, to rule out a mental disability as the primary condition;

12. a speech/language assessment conducted by a speech/language pathologist when oral expression or listening comprehension is suspected to be an area of impairment;

13. when neurological or other health/medical problems are suspected, an assessment conducted by a physician, neurologist, or neuropsychologist.

E. Re-Evaluation. The re-evaluation of students classified with a Specific Learning Disability shall consist of, at a minimum, all requirements specified under the Individual Evaluation Process: Re-Evaluation Section of this handbook and any other assessments deemed appropriate by the Re-evaluation/IEP Team.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§327. Speech or Language Impairment

A. Definition. *Speech or Language Impairment* means a communication disorder such as stuttering, impaired articulation, a language impairment, or a voice impairment that adversely affects a student's educational performance.

1. Dialectal variations alone do not qualify a student to be classified as having speech or language impairment.

B. Criteria for Eligibility. Criteria 1, 2, 3 or 4 and 5 must be met for a student to be classified as having a Speech or Language Impairment.

1. Articulation. Non-maturational speech disorder of one or more phonemes characterized by consistent omission or incorrect production of speech sounds.

2. Fluency. Inappropriate rate and time patterning of speech at least 5 percent of the time, characterized by any of the following: sound and syllable repetitions, sound prolongations, audible or silent blocking, interjections, broken words, circumlocutions, or words produced with an excess of tension and accompanied by ancillary movements that are indicative of stress or struggle. A student exhibiting normal non-fluencies occurring during the developmental speech stage does not meet this criterion.

3. Voice. Any inappropriate consistent deviation in pitch, intensity, quality, or other basic phonatory or resonatory attribute.

4. Language. Impaired receptive, integrative, or expressive disorder of phonology, morphology, syntax, semantics, or pragmatics. A student shall exhibit a deficit of at least 1.5 standard deviations below the mean based on chronological age. If the student is functioning below age level in all areas, developmental functioning levels should be considered.

5. There is documented evidence that the impairment significantly interferes with the student's educational performance or significantly interferes with the student's developmental functioning to a degree inappropriate for his or her cultural and social background or overall developmental level.

a. Some language difficulties cannot be described as a difference from the norm either because specific norms are not available or because the individual's language is deviant in a way not described adequately by developmental norms. In such cases, language samples should be analyzed and the language behavior should be documented with

deviations described in various settings. An overall picture of language behavior should be described. Students who are non-verbal communicators shall be described, using their augmentative and/or alternative communication needs or modes.

C. Procedures for Screening

1. Pre-referral activities shall be followed.

2. A developmental screening for children aged 3 through 5 shall be conducted to rule out the presence of additional impairments.

a. If delays other than speech are evident as a result of screening, then follow developmental delay or one of the other categorical exceptionalities procedures for 3- through 5-year-old children.

D. Procedures for evaluation:

1. a speech/language assessment conducted by a licensed speech/language pathologist, which shall include the following procedures:

a. the use of standardized test instruments and/or published normative data in speech pathology or child development;

b. formal or informal analysis of a communication sample;

c. additional information gathered from sources such as criterion-referenced materials, communication-related data collected by other professionals (including other pupil appraisal personnel and teachers), and an observation of communication skills;

d. an assessment of the structure and function of the oral peripheral mechanism;

e. augmentative alternate communication needs when appropriate;

2. an educational assessment conducted to review academic skills and to determine whether the speech or language impairment significantly interferes with the student's educational performance. This assessment may be conducted by a qualified pupil appraisal staff member or the student's classroom teacher, when appropriate. The effect of the speech or language impairment on educational performance must be documented in the evaluation report, including an analysis of how the student's disability affects access to and progress in the general curriculum;

3. an assessment conducted by an appropriate medical specialist in all cases in which there is a suspected voice impairment;

4. information from a parent conference or other communication with the parent(s) to determine whether developmental, health, or other factors may be causing, contributing to, or sustaining the speech or language problem;

5. medical, psychological, and additional educational assessments shall be requested by the evaluation coordinator, when appropriate to the evaluation of the suspected disability.

E. Re-evaluation. The re-evaluation of students with speech or language impairments shall consist at a minimum of all requirements as specified under the Individual Evaluation Process: Re-evaluation Section and any other assessments deemed appropriate by the Re-Evaluation/IEP Team.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§329. Talented

A. Definition. *Talented* means possession of measurable abilities that give clear evidence of unique talent in visual or performing arts or both.

B. Criteria For Eligibility. Criteria 1 and 2 must be met.

1. The student must meet all screening criteria in C. below.

2 Creative abilities in visual and/or performing arts grades K-12 must be demonstrated.

a. Music. For grades K-6: criterion i or ii, plus iii and iv or v must be met. For grades 7-12: criteria iii, plus iv or vi must be met.

i. For grades K-3: the student must obtain a score of 35-40 on the state-approved music evaluation instruments.

ii. For grades 4-6: the student must obtain a score of 30-35 on the state-approved music evaluation instrument.

iii. The student must obtain a score of 18-20 on the music interview scale.

iv. For grades K-12: the student must obtain a score of 27-30 on the instrumental music audition scale, if performing prepared selections, or a score of 23-25, if performing improvisations.

v. For grades K-6: the student must obtain a score of 33-35 on the vocal music audition scale.

vi. For grades 7-12: the student must obtain a score of 47-50 on the vocal music audition scale

b. Theater: Criteria i and ii, or i and iii must be met.

i. The student must obtain a score of 13-15 on the theater interview scale.

ii For grades K-6: the student must obtain a score of 42-45 on the theater audition scale.

iii. For grades 7-12: the student must obtain a score of 47-50 on the theater audition scale.

c. Visual Arts: Criteria i and ii, or iii and iv must be met.

i. For grades K-6: the student must obtain a score of 12-15 on the *Art Recognition Test*.

ii. For grades K-6: the student must obtain a score of 26-30 on the *Narrative Drawing Test*.

iii. For grades 7-12: the student must obtain a score of 26-30 on the *Design Test*.

iv. For grades 7-12: the student must obtain a score of 42-45 on the *Drawing Test*.

3. State-approved art, music, and theater screening instruments and evaluation instruments are located in the *Talent Evaluation Kit*.

C. Procedures for Screening

1. A student is identified by his or her regular or special education teacher, as having artistic needs not being met in the regular class in which the student is enrolled.

2. The regular or special education teacher completes the appropriate screening instrument (Visual Arts, Music, or Theater).

3. Each item receiving a score of four or above on the rating scale must be documented with examples, or samples of the student's work, whichever is more appropriate.

4. The student must score in the range of 33-35 on the visual arts screening instrument, or 33-35 on the music

instrument or 48-50 on the theater-screening instrument to warrant an evaluation.

D. Procedures for Evaluation. The minimal evaluation for a student shall consist of the following procedures.

1. An assessment of performance conducted simultaneously, independently, and without discussion of results by at least two state-approved specialists in the arts, using state-approved procedures and instruments.

2. A pupil appraisal evaluation coordinator designated from among pupil appraisal personnel to attend the performance in 1 above and integrate all evaluation results into a report that indicates whether or not the student is talented, consistent with the criteria for the appropriate classification of talented.

3. LEA selected specialists in music, theater, or visual arts who meet either Criteria a and c, or b and c below and are not employed by the LEA.

a. The specialist must possess an advanced degree in music, theater, visual arts education, or fine arts, and be currently employed in that field.

b. The specialist must have been recognized as a performing artist in the community, state, or nation and must have submitted evidence of this recognition to the State Department of Education.

c. The specialist must have been trained and approved by the State Department of Education.

E. Re-evaluation. A re-evaluation must be conducted at least every three years. For students whose only exceptionality is Talented, the re-evaluation may be accomplished through the IEP process at the time of an IEP review meeting not through the Re-evaluation/IEP process. Informed Parental Consent of the re-evaluation must be sent to parents prior to the IEP Review meeting in which a re-evaluation will be conducted. If no concerns are evident with the student's current program, no evaluation report is required. This discussion will be documented on the IEP form and a copy of the IEP form will be forwarded to pupil appraisal.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§331. Traumatic Brain Injury

A. Definition. *Traumatic Brain Injury* means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, or motor abilities; psychosocial behavior; physical functions; information processing and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

B. Criteria for eligibility:

1. documented medical evidence of an external insult to the brain causing an impairment in accordance with the definition exists; and

2. the impaired functioning significantly affects educational performance.

C. Procedures for Screening

1. Pre-referral Activities shall be followed.

D. Procedures for evaluation:

1. medical documentation that there has been an external insult to the brain, which causes an impairment to the cognitive, physical, behavioral or emotional functioning of the individual. A health assessment conducted by a school nurse or other qualified personnel when the medical report indicates the student has an impairment requiring health technology, health management or health treatments including a special diet or medication or needs assistance with activities of daily living;

2. a psychological assessment conducted by a certified school psychologist or other qualified pupil appraisal member to determine the status of cognitive, behavioral and emotional functioning;

3. a family interview conducted by a school social worker or other qualified pupil appraisal member to determine not only the status of social interaction behaviors, but also the impact of social, cultural, developmental factors on the student's difficulties;

4. an educational assessment conducted by an educational diagnostician or other qualified pupil appraisal member to determine the need for educational and environmental adjustments;

5. a speech/language evaluation conducted by a speech/language pathologist to determine whether there are speech or language difficulties;

6. any other assessment procedures deemed necessary by the multidisciplinary team.

E. Re-evaluation The re-evaluation of students classified as having traumatic brain injury shall include the following procedures:

1. all requirements specified under Individual Evaluation Process: Re-Evaluation Section;

2. a medical evaluation or health assessment as specified in the Procedures for Evaluation in D1. above, when deemed appropriate by the Re-evaluation/IEP Team;

3. any other assessments deemed appropriate by the Re-evaluation/IEP Team.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§333. Visual Impairment

A. Definition. *Visual Impairment* (including blindness) means an impairment in vision that even with corrections adversely affects a student's educational performance. The term includes both partial sight and blindness.

B. Criteria for Eligibility. Criterion 1 and either 2, 3, 4, or 5 must be met:

1. loss of vision which significantly interferes with the ability to perform academically and which requires the use of specialized textbooks, techniques, materials, or equipment;

2. visual acuity in the better eye or eyes together with best possible correction of:

a. blindness-20/200 or less distance and/or near acuity; or

b. partial sight-20/70 or less distance and/or near acuity;

3. blindness due to a peripheral field so contracted that the widest diameter of such field subtends an angular distance no greater than 20 degrees and that it affects the student's ability to learn;

4. progressive loss of vision, which may in the future affect the student's ability to learn;

5. other blindness resulting from a medically documented condition.

C. Procedures for Screening

1. Pre-referral activities shall be followed.

2. Orientation and mobility screening will be conducted to screen the student's ability to travel around in his or her environment. (There is a suggested screening checklist in the Appendix.) Based on the results of the screening, an assessment conducted by a qualified orientation and mobility instructor may be warranted.

D. Procedures for Evaluation. The minimal evaluation shall consist of the following procedures:

1. an eye examination conducted by an ophthalmologist or optometrist. When the impairment results from an active disease process, it shall be verified in the report of an ophthalmologist. When this condition is progressive or unstable, the need for a yearly eye examination shall be documented in the integrated report;

2. an educational assessment conducted by an educational diagnostician or other qualified pupil appraisal member for the purpose of identifying educational and environmental adjustments:

a. a functional vision assessment (an assessment of the degree to which the student utilizes vision to operate within the environment);

b. an assessment of the student's reading and writing skills, including the student's needs in appropriate reading and writing media (including an assessment of the student's future needs for instruction in Braille or the use of Braille). For the student who is a non-reader, learning medium assessment would involve systematic examination of how he/she obtains information (visually, tactually, and/or auditorally);

c. appraisal personnel may refer to the *Resource Manual for Administrators and Teachers of Students with Visual Impairments* for additional information on assessing students with visual impairments;

3. an assessment conducted by a qualified orientation and mobility instructor for the purpose of identifying the student's ability to travel safely and efficiently in a variety of environments and situations with or without the use of special mobility devices and visual aids;

4. a family interview conducted by a social worker or other qualified pupil appraisal staff member, which addresses certain factors:

a. the needs of the family in understanding the student;

b. the community service agencies currently providing assistance to the family in relationship to the student;

c. the expectations of the parents for the student;

d. an appraisal of self-help and other functional skills exhibited at home;

5. a developmental screening or assessment (if the student is less than 6 years of age) conducted by persons trained in such procedures;

6. when the data indicate a severe visual impairment, the evaluation coordinator should consider referring the student to the approved specialized statewide assessment center at the Louisiana School for the Visually Impaired (LSVI). The center will assist the LEA in conducting specialized aspects of the evaluation;

7. the LEA shall notify State Deaf-blind Census of all students who have both visual and hearing impairments.

E. Re-Evaluation. The re-evaluation of students classified, as having visual impairments shall consist of the following procedures:

1. those requirements specified under the Individual Evaluation Process: Re-evaluation Section;

2. an eye examination conducted by an ophthalmologist or an optometrist:

a. if the student's impairment is a progressive or unstable loss of vision and if the required annual eye examination has been conducted, the results may be reviewed;

b. if the student's eye condition is permanent blindness and if written documentation from an ophthalmologist is attached to the re-evaluation report, this examination need not occur. When additional conditions associated with the visual impairment are suspected, the Re-evaluation/IEP Team should request this examination;

3. consideration shall be given to the appropriateness of current reading/learning media and travel abilities, especially for the student whose vision may change or may have changed. Any other assessments deemed appropriate by the Re-evaluation/IEP Team.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

Chapter 5. Special Services

§501 Special Services

A. As used in this section, are included in the term *Special Education*, which means specially designed instruction, at no cost to the parents, to meet the unique needs of a student with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings. They include assistive technology when required as part of the student's special education; instruction in physical education (including special physical education, adapted physical education, movement education, and motor development); speech/language pathology services when the service is considered special education rather than a related service; travel training; and vocational education.

B. At no cost means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or to their parents as a part of the regular education program.

C. Specially-designed instruction means adapting, as appropriate, to the needs of an eligible student, the content, methodology, or delivery of instruction to address the unique needs of the student that result from the student's disability; and ensuring access of the student to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the LEA that apply to all students.

D. Specific criteria for eligibility for adapted physical education and assistive technology are immediately following this introduction. When specific criteria to determine eligibility for other special services become necessary, they will be added to the document.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§503. Adapted Physical Education

A. Definition. *Adapted Physical Education* is specially designed physical education for students with disabilities who may not safely or successfully engage in unrestricted participation in the vigorous activities of the regular physical education program on a full-time basis and for children with disabilities aged three through five, who meet the criteria below.

1. Adapted Physical Education is a direct instructional service for students with disabilities. The provision of services shall be determined at the IEP Team meeting, using the recommendations of the adapted physical education evaluator and the results of the motor assessment. The continuation of services shall be determined by the IEP Team at the annual IEP Review using the recommendations of the adapted physical education teacher.

B. Criteria for Eligibility

1. Children aged 3 through 5 years:

a. evidence of a motor deficit as demonstrated by performance at least one and one-half standard deviations below the mean for the student's chronological age on instruments that measure a broad range of fine and gross motor abilities. Some instruments used to assess students aged three through five years may yield a developmental age score instead of a standard score. In such cases, the student must demonstrate a motor delay of a least 20 percent of the chronological age:

i. students with a motor delay of 20 percent to 60 percent shall be identified as having motor deficits in the mild/moderate range;

ii. students with a motor delay of 61 percent or greater shall be identified as having motor deficits in the severe range;

b. corroboration of the motor deficit and the need for adapted physical education provided by the evaluator based upon observation of the student.

2. Students aged 6 through 21:

a. evidence that the student meets 70 percent or less of the state-identified physical education competencies, using the *Competency Test for Adapted Physical Education*, for the grade level appropriate to the student's chronological age:

i. students meeting 45 to 70 percent of the competencies shall be identified as having motor deficits in the mild range;

ii. students meeting 20 to 44 percent of the competencies shall be identified as having motor deficits in the moderate range;

iii. students meeting 19 percent or less of the competencies shall be identified as having motor deficits in the severe range;

b. corroboration of the motor deficit and the need for adapted physical education provided by the evaluator based upon observation of the student.

3. Students classified as having Emotional Disturbance, Traumatic Brain Injury, or Other Health Impairment:

a. documented evidence that the student is unable to participate in a regular physical education class as a result of a serious emotional disorder, brain injury, or a chronic or acute health condition;

b. corroboration of the condition and the need for adapted physical education provided by the evaluator, based upon observation of the student.

C. Procedures for screening:

1. screening shall be conducted as indicated in pre-referral activities §105.E, Motor Screening;

2. anecdotal records or observations of motor skills, documenting the specific concerns causing the referral, conducted by the person responsible for the physical education program.

D. Procedures for Evaluation. The evaluation shall include a minimum of the following procedures:

1. for students aged birth-five years: An assessment of motor abilities conducted by a certified adapted physical education teacher or professional experienced in motor assessment;

2. for students aged six - twenty-one: An assessment of grade/age level physical education competencies using the *Competency Test of Adaptive Physical Education* conducted by a certified adapted physical education teacher;

3. for students with diagnosed emotional disturbance, traumatic brain injury or other health impairments: Written documentation verifying a significantly reduced performance that prevents safe and successful participation in a regular physical education class. For students with emotional disturbance, the documentation must be provided by a certified school psychologist, licensed psychologist, or psychiatrist and an adapted physical education evaluator. For students with other health impairments or traumatic brain injury, the documentation must be provided by a physician and an adapted physical education evaluator;

4. observation of the student in both structured (e.g., one-on-one with the evaluator) and unstructured (e.g. free play, recreational) settings. These observations should focus on, but not be limited to, those motor deficits identified by the motor assessment instrument;

5. recommendations for specific types of activities and/or adaptations necessary to meet the physical education needs of the student should be included in the evaluation report.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§505. Assistive Technology

A. Definition.

Assistive Technology Services? any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. Included in these services are procedures:

a. an evaluation of the needs of a student with a disability, including a functional evaluation of the student in the student's customary environment;

b. the purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices for students with disabilities;

c. the selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

d. the coordinating and using of other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

e. the training or technical assistance necessary for a student with a disability, or where appropriate, for the student's family;

f. the training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or who are otherwise substantially involved in the major life functions of that student;

2. Ass*istive Technology Device* is any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, used to increase, maintain, or improve the functional capabilities of a student with a disability.

a. Assistive Technology encompasses a broad range of devices from very simple ("low technology") to very sophisticated ("high technology").

B. Criteria for Eligibility

1. a and b must be met:

a. the student must be classified and eligible for special educational services;

b. there is documented evidence that assistive technology is required within the educational setting.

2. Each LEA shall ensure that assistive technology devices and/or assistive technology services are made available to a student with a disability, if required, as a part of the student's special education, related services, or supplementary aids and services. Consideration should be given for every student with a disability who is eligible for an individualized education program as to whether the student requires assistive technology devices and/or services to receive an appropriate education.

C. Procedures for Screening

1. A review of available medical and/or educational information, environmental concerns, and anecdotal records must be conducted to determine whether the assistive technology needs of the student have been considered.

2. Assistive technology screening will be conducted to document physical, social, and motor areas where assistive technology might be considered.

D. Procedures for Evaluation

1. The assistive technology evaluation shall be conducted by qualified professional(s) with the level of expertise necessary to address the specific areas of concern. These professionals may include, but are not limited to audiologists, occupational therapists, physical therapists, speech/language pathologists, teachers of the visually impaired, adapted physical education teachers:

a. an observation of the student interacting with parents, teachers or peers in the educational environment during daily activities. The utilization of observational tools such as interaction checklists, criterion-based instruments, task analysis, and needs assessment, etc., is recommended;

b. an interview with the primary care providers and classroom teacher(s) to determine what intervention strategies for assistive technology devices and services, if any, have already been attempted or provided and what the results were;

c. an assessment of the student's current mobility, seating, positioning, and neuromotor ability, if applicable, to determine selection techniques and the method(s) of access for assistive technology as well as to address further seating, positioning, and mobility needs;

d. the results of an assessment with a variety of assistive technology devices that would be appropriate for the student. Trials with assistive technology devices could include options for both low technology and high technology solutions:

i. the student and family should be involved in this process to ensure the likelihood that the technology that is selected will be used;

ii. specific recommendations for educationally necessary interventions, strategies and/or modifications of assistive technology devices and/or services should be included in the evaluation report. Recommendations should also include personnel who will need training and technical assistance to work with the student.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

Chapter 7. Related Services

§701 Related Services

A. As defined in *Bulletin 1706*? *Related Services* means transportation and such developmental, corrective, and other supportive services as are required to assist a student with an exceptionality to benefit from special educational services. Related services include speech/language pathology and audiological services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, early identification and assessment of disabilities in students, counseling services including rehabilitation counseling, assistive technology devices and services, orientation and mobility services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parental counseling and training.

B. When the need for such services is indicated by the referral concerns during the evaluation process, the evaluation coordinator shall ensure that appropriate and qualified personnel participate in the evaluation process. The criteria for eligibility for school health services, occupational therapy, orientation and mobility services, physical therapy, and speech/language pathology services immediately follow this introduction. Eligibility criteria for other related services are based on written documentation of need. When specific criteria to determine eligibility for other related services are necessary, they will be added to the document.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§703 Occupational Therapy

A. Definition.

1. *Occupational Therapy* services include the following procedures:

a. evaluating students with disabilities by performing and interpreting tests and measurements and/or

clinical observations of neurophysiological, musculoskeletal, sensorimotor functions and daily living skills;

b. planning and implementing treatment strategies for students based on evaluation findings;

c. improving, developing, restoring or maintaining functions impaired or lost through illness, injury, or deprivation;

d. improving or maintaining ability to perform tasks for independent functioning when functions are impaired or lost;

e. administering and supervising therapeutic management of students with disabilities, recommending equipment and providing training to parents and educational personnel.

2. Each school system shall identify, locate, and evaluate each suspected student with disabilities, birth through 21 years of age, but is responsible for providing OT services to only those eligible students ages 3 through 21. The provision of services shall be determined at the IEP Team meeting, using the input of the occupational therapist and the results and recommendations of the therapy assessment. The continuation of services shall be determined at the annual IEP review using input of the therapist.

B. Criteria for Eligibility

1. Both Subparagraphs a and b must be met.

a. The student is classified and eligible for special educational services. There is documented evidence that occupational therapy is required to assist the student to benefit from the special educational services.

b. The student demonstrates a motor impairment in one of the following categories: Developmental, Motor Function, or Sensorimotor.

i. Developmental. Students (excluding those with neurophysiological impairments) who demonstrate a fine motor, visual motor, oral motor, or self help delay. *Functional abilities* are defined as the student's overall educational performance in the areas of cognition, communication, social, self help, and gross motor.

(a). Students with Disabilities Ages 3y0m-5y6m. Students who demonstrate a fine motor, visual motor, oral motor or self help delay greater than 1 standard deviation below functional abilities as measured by an appropriate assessment instrument. Some instruments yield a development age score instead of a standard score. In such cases, a student must demonstrate a delay of at least 6 months below functional abilities.

(b). Students with Disabilities Ages 5y7m-9y11m. Students who demonstrate a fine motor, visual motor, oral motor or self help delay greater than 1 standard deviation below functional abilities as measured by an appropriate assessment instrument. Some instruments yield a developmental age score instead of a standard score. In such cases, a student must demonstrate a delay of at least 12 months below functional abilities.

(c). Students with Disabilities Ages 10y0mo -21y. Students who demonstrate a fine motor, visual motor, oral motor or self help delay greater than 1 standard deviation below functional abilities as measured by an appropriate assessment instrument. Some instruments yield a developmental age score instead of a standard score. In such cases, a student must demonstrate a delay of at least 18 months below functional abilities.

ii. Motor Function. According to clinical and/or behavioral observations (which may include, but are not limited to available current medical information, medical history and/or progress reports from previous therapeutic intervention), the student exhibits neurophysiological limitations or orthopedic limitations, that affect his or her physical functioning in the educational setting. These limitations might include abnormalities in the area(s) of fine motor, visual motor, oral motor, or self help skills. In addition to OT assessment, current student information must indicate one of the following abilities:

(a). an ability to improve motor functioning with occupational therapy intervention; or

(b). an ability to maintain motor functioning with therapeutic intervention (if the student maintains motor functioning without therapeutic intervention, OT would not be required in the educational setting); or

(c) an ability to slow the rate of regression of motor function with therapeutic intervention (if the student has a progressive disorder).

iii. Sensorimotor. According to clinical behavior observation and/or an appropriate assessment instrument, the student exhibits an inability to integrate sensory stimulus effectively, affecting his or her capacity to perform functional activities within the educational setting. These activities might include abnormalities in the area of fine motor, visual motor, oral motor, self-help or sensory processing (sensory awareness, motor planning and organization of adaptive responses).

2. In addition to OT assessment, current student information must indicate an ability to improve functional activity performance through OT intervention.

C. Procedures for Evaluation

1. The assessment shall be conducted by an occupational therapist and shall include at a minimum the following procedures:

a. a review of available medical and educational information, environmental concerns, anecdotal records and observation of motor skills which document the specific concerns causing the referral;

b. an assessment of motor abilities.

2. For students ages 6-21, the assessment should be conducted in the educational environment.

3. The occupational therapist's assessment should be designed to answer the questions listed below.

a. Does this problem interfere with the student's ability to benefit from his or her educational program?

b. Is there a likely potential for change in the student's educational functioning if he/she receives therapeutic intervention?

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§705 Orientation and Mobility Services

A. Definition. *Orientation and Mobility Services* means services provided to blind or visually impaired students by a university or agency trained and certified professional to enable those students to attain systematic orientation to and safe movement within their environment in school, home and community. These include teaching students appropriate skills:

1. spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g. using sound at a traffic light to cross the street);

2. use of the long cane as a tool to supplement visual travel skills or as a tool to safely negotiate the environment for students with no available travel vision;

3. the understanding and use of one's remaining vision and distance low vision aids;

4. other concepts, techniques, and tools.

B. Criteria for Eligibility

1. Both a and b must be met.

a. The student must be classified and eligible under federal or state law as an individual with a visual impairment.

b. There is documented evidence that orientation and mobility services are required to enable the student to benefit from special education.

C. Procedures for screening:

1. orientation and mobility screening conducted to assess the student's ability to travel around in his or her environment (Suggested screening procedures are in the Appendix.);

2. anecdotal records or observation of behaviors that document impaired visual function relating to the student's ability to travel safely and efficiently in a variety of environments.

D. Procedures for Evaluation. The assessment shall be conducted by an orientation and mobility instructor recognized by the State Department of Education. The assessment shall include the following information:

1. an assessment of the student's ability to travel safely and efficiently in a variety of environments and situations with or without the use of special mobility devices and visual aids;

2. a listing of the student's observed strengths and weaknesses in the area of travel safety and mobility skills;

3. recommendations concerning the student's demonstrated need for formal orientation and mobility training within the specific areas. These recommendations should be addressed by the IEP Team in planning the student's educational program.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§707. Physical Therapy

A. Definition. *Physical Therapy* services includes:

1. evaluating students with disabilities by performing and interpreting tests and measurements and/or clinical observations of neurophysiological, musculoskeletal, cardiovascular, respiratory, and sensorimotor functions;

2. planning and implementing treatment strategies for students based on evaluation findings;

3. improving, maintaining and/or slowing the rate of regression of the motor functions of a student to enable him/her to function in his educational environment;

4. administering and supervising therapeutic management of students with disabilities, recommending equipment and providing training to parents and educational personnel.

B. Each school system shall identify, locate, and evaluate each suspected child/student with disabilities, birth through 21 years of age, but is responsible for providing PT services only to those eligible students ages 3 through 21. The provision of services shall be determined at the IEP Team meeting using the input of the therapist and the results and recommendations of the therapy assessment The continuation of services shall be determined at the annual IEP review using input of the therapist.

C. Criteria for Eligibility

1. Both a and b must be met.

a. The student is classified and eligible for a special educational program. There is documented evidence that physical therapy is required to assist the student to benefit from special education.

b. The student demonstrates gross motor impairment in either the Developmental or Motor Function category.

2. Developmental. Students (excluding those with neurophysiological impairments) who demonstrate a gross motor delay. Functional abilities are defined as the student's overall educational performance in the areas of cognition, communication, social, self help, and fine motor.

a. Students with Disabilities Ages 3y0m-5y6m. Students who demonstrate a gross motor delay of 6 months or more below level of functional abilities as measured by an appropriate assessment instrument.

b. Students with Disabilities Ages 5y7m-9y11m. Students who demonstrate a gross motor delay of 12 months or more below level of functional abilities as measured by an appropriate assessment instrument.

c. Students with Disabilities Ages 10y0m-21y. Students who demonstrate a gross motor delay of 18 months or more below level of functional abilities as measured by an appropriate assessment instrument.

3. Motor Function. According to clinical and/or behavioral observations? which may include but are not limited to available current medical information, medical history and/or progress reports from previous therapeutic intervention? the student exhibits neurophysiological, orthopedic, cardiovascular, respiratory, or sensorimotor limitation that affect his or her gross motor functioning in the educational setting.

a. In addition to PT assessment, current student information must indicate one of the following:

i. an ability to improve motor functioning with physical therapy intervention;

ii. an ability to maintain motor functioning with therapeutic intervention (if the student maintains motor functioning without therapeutic intervention, PT would not be required in the educational setting);

iii. an ability to slow the rate of regression of motor function with therapeutic intervention (if the student has a progressive disorder).

D. Procedures for Evaluation

1. The assessment shall be conducted by a licensed physical therapist and shall include at a minimum the following procedures:

a. a review of available medical and educational information, environmental concerns, anecdotal records and observation of motor skills that document the specific concerns causing the referral;

b. an assessment of gross motor abilities:

i. for students ages 6-21, the assessment should be conducted in the educational environment.

2. The physical therapy assessment shall be designed to answer the following questions.

a. Does this problem interfere with the student's ability to benefit from his or her educational program?

b. Is there a potential for change in the student's educational functioning if he/she receives therapeutic intervention?

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§709. School Health Services

A. Definition. *School Health Services* are those related services specially designed for a student who has a disability (defined under federal and state statutes), having a special health need, and who is unable to participate in his or her educational program without the use of such health services, which may include, among others? health treatments, technology, and/or management.

1. The school health services referred to in this section are those determined through a health assessment during the evaluation process. The provision of services will be meeting, using the input from the school nurse or other qualified personnel and the results and recommendations of the health assessment. The continuation of services will be determined at the annual IEP Review using input from the school nurse.

B. Criteria for Eligibility

1. Criteria a, b, and c must be met.

a. The student must be classified and eligible, under Federal or State law, as an individual with a disability.

b. There is documented evidence that special health services are required within the educational setting to enable the student to benefit from the special educational program.

c. A prescription from a physician or dentist licensed to practice in Louisiana or adjacent state prescribes the health treatment, technology, and/or health management that the student must have in order to function within the educational environment; or there is a documented need for a modification of his or her activities of daily living.

C. Procedures for Evaluation. When there is evidence of the need for health technology, treatment and/or management, the assessment of a student by a school nurse or other qualified personnel shall include at a minimum the following procedures:

1. an assessment of the student's health status conducted in the educational setting;

2. an analysis and interpretation of the special health service needs, health status, stability, complexity of the service, predictability of the service outcome, and risks that may be involved with improperly performed services.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§711. Speech/Language Pathology Services

A. Definition. *Speech/Language Pathology Services* includes:

1. identification of students with speech or language impairments;

2. diagnosis and appraisal of specific speech or language impairments;

3. referral for medical or other professional attention necessary for the habilitation of speech or language impairments, as appropriate;

4. provision of speech and language services for the habilitation of communication or prevention of communication impairments;

5. assessment and interventions for augmentative/alternative communication;

6. counseling and guidance of parents, students, and teachers regarding speech and language impairments.

B. Each school system shall identify, locate, and evaluate each suspected child/student with disabilities, birth through 21 years of age, but is responsible for providing speech/language pathology services as a related service only to those eligible students ages 3 through 21. The provision of services shall be determined at the IEP Team meeting using the input of the therapist and the results and recommendations of the speech/language assessment. The continuation of services shall be determined at the annual IEP review using input of the therapist.

C. Criteria for Eligibility

1. Criteria a, b, and c must be met.

a. The student is classified as a student having a disability other than Speech or Language Impairment.

b. The student meets the criteria for eligibility for Speech or Language Impairment.

c. There is documented evidence that speech/language pathology services are required to assist the student to benefit from the special educational services.

2. Non-verbal students with disabilities who have augmentative communication needs may not be denied speech/language pathology services as a related service because an inability to assess using traditional methods.

D. Procedures for Evaluation

1. The assessment shall be conducted by following the procedures for evaluation under Speech or Language Impairment.

2. The speech/language assessment shall be designed to answer the following questions.

a. Does this problem interfere with the student's ability to benefit from his or her educational program?

b. Is there a likely potential for change in the student's educational functioning if he/she receives therapeutic intervention?

E. Provision for Services

1. Speech/Language Pathology Services may be provided through direct, consultation, or monitoring/tracking services as described in *Related Services Guidelines for IEP Teams.*

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment.

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? No

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No

Interested persons may submit comments until 4:30 p.m., June 9, 2004, to Nina Ford, State 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: Bulletin 1508
Pupil Appraisal Handbook

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs to local government. The cost of dissemination at the state level will be approximately $2,200 from federal funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no increase or decrease in state or local government revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affected persons or nongovernmental groups. This document has never been codified but has been used by the state and local education agencies since the 1980's.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on employment or competition in the public and private sectors as a result of this Rule.

Marlyn J. Langley	H. Gordon Monk
Deputy Superintendent	Staff Director
Management and Finance	Legislative Fiscal Office

0404#068

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1934? Starting Points Preschool Regulations
(LAC 28:XXI.Chapters 1-5)

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 revisions to *Bulletin 1934? Starting Points Preschool Regulations*. In an effort to align all early childhood prekindergarten programs under the jurisdiction of the Department of Education, the Starting Points Prekindergarten Regulations were revised. These revisions approved at the February 2004 meeting of the State Board of Elementary and Secondary Education (SBESE) seek to clarify certain policies as well as incorporate sections of previously approved guidelines into the new regulations. Revisions include clarification of teacher credentials and clarification of instructional time. Additionally the following policies were moved from the guidelines and placed as regulations: class schedule; student assessment; and use of equipment, materials, and supplies.

Title 28
EDUCATION
Part XXI. Bulletin 1934? Starting Points Preschool Regulations

Chapter 1. General Provisions

§101. Purpose

A. The Department of Social Services, lead agency for Temporary Assistance to Needy Families Block Grant, has allocated a portion of these funds to the Louisiana Department of Education for program development. The purpose of this program is to assist low income families by providing quality early childhood programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:274 (February 2002), LR 30:

§103. Program Philosophy

A. Local Starting Points Prekindergarten Programs will adhere to the developmental philosophy as outlined by the National Association for the Education of Young Children. Developmentally appropriate practices have proven to be effective in early childhood education. Inherent in this philosophy is the provision of a child-centered program directed toward the development of cognitive, social, emotional, communication and motor skills in a manner and at a pace consistent with the needs and capabilities of the individual child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:274 (February 2002), LR 30:

Chapter 3. Eligibility

§301. Eligibility Criteria

A. In order to qualify for the Starting Points Prekindergarten Program, participants must:

1. be one year younger than the age eligible for kindergarten;

2. meet the requirements of law for immunization and documentation required for regular school enrollment, and

3. qualify for free or reduced price meals pursuant to the federal child nutrition program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:1685 (October 2001), LR 28:274 (February 2002), LR 30:

§303. Eligibility Verification

A. School systems must maintain, at each program site, documentation of the student or his family's eligibility to receive free or reduced price meals pursuant to the federal child nutrition program.

B. Once eligibility is determined, it is valid for a period of one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:275 (February 2002), LR 30:

§313. Changes in Eligibility Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), LR 28:275 (February 2002), repealed LR 30:

Chapter 5. Program Structure

§501. Health Requirements

A. All children enrolled in the Starting Points Prekindergarten Program must comply with the immunization requirements as established by the Department of Health and Hospitals. All local school systems/nonpublic schools will administer a vision and hearing-screening test to each student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:275 (February 2002), LR 30:

§503. Teacher Qualifications

A. All teachers must possess one of the following credentials:

1. A valid and current Louisiana teaching certificate in Nursery School Education, Early Childhood Education, Kindergarten Education, Early Intervention, Non-Categorical Preschool Handicapped, or Prekindergarten-3.

2. A valid and current Louisiana teaching certificate in Elementary Education and an Out-of-Field Authorization to Teach (OFAT) in Kindergarten, Nursery School, Early Intervention, Non-Categorical Preschool Handicapped, or Prekindergarten-3 (refer to Bulletin 746).

3. An uncertified teacher with a baccalaureate degree and Temporary Employment Permit (TEP), a Temporary Authority to Teach (TAT), or an Out-of-State Certificate (refer to Bulletin 746).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:1685 (October 2001), LR 28:275 (February 2002), LR 30:

§505. Professional Development

A. All staff members working directly with children enrolled in the Starting Points Prekindergarten must be provided with 18 clock hours of professional development for continuing education. An orientation of the Starting Points Prekindergarten Program Regulations must be provided as a component of this professional development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 30:

§507. Parent Involvement

A. Each school system/nonpublic school is required to develop a plan that encourages parent/family participation in the education of their child. The plan must include a program orientation meeting for parents no later than 20 working days after the beginning of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 30:

§509. Class Size Limitation

A. A student to teacher ratio of no more than twenty to one, and a student to adult staff member ratio of no more than ten to one shall be maintained. The class may not exceed 20 students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:275 (February 2002), LR 30:

§511. Length of School Day and School Year

A. The length of the school day and the school year shall follow the provision established in R.S. 17.154.1. The school day that systems operate shall be a full day with a minimum of 360 minutes of instructional time per day exclusive of lunch, recess, and planning. Instructional days will be based upon the school calendar of each local school system/nonpublic school with a minimum of 177 days of instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:275 (February 2002), LR 30:

§513. Daily Schedule

A. The schedule should include the following time allotments and meet the requirements set forth in Bulletin 741 and in the *Early Childhood Environmental Rating Scale? Revised*.

1. Student-initiated activities 35%
   a. Learning centers
   b. outdoor free play
2. Teacher-directed activities 35%
   a. whole group activities (no longer than 15-20 minutes at a time)
   b. small group activities
   c. outdoor planned activities
3. Snack, restroom 10%
4. Nap 20%

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 30:

§515. Curriculum

A. The curriculum for the Starting Points Prekindergarten Program shall be a research-based, developmentally appropriate curriculum that supports interrelated development. The curriculum should be aligned with the Louisiana Standards for Programs Serving Four-Year-Old Children and should address the Grade-Level Expectations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:1685 (October 2001), LR 28:275 (February 2002), LR 30:

§517. Student Assessment

A. The Developing Skills Checklist will be administered in a pretest and posttest manner. Student assessment should be used to plan and modify the instructional program. To help determine the needs of the individual students when planning for instruction, classroom teachers are required to maintain a portfolio on each student. The portfolio will include work samples, photographs, anecdotal records, skills checklists, etc. that are indicative of the children's development based on the *Louisiana Standards for Programs Serving Four-Year-Old Children* and the Grade-Level Expectations. Parent conferences, including information on the child provided by the parent and conference notes as well as any referrals should be included in the portfolio. Portfolios must be kept up-to-date in the classroom for review during on-site visits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§519. Equipment, Materials, and Supplies

A. Each item of equipment acquired through Starting Points funds must be used throughout the period of active funding for purposes clearly within the scope of the program. If a program should change locations, all materials and equipment (including playground equipment) must follow the program.

B. In the event that funding is no longer available or the school system /school no longer wishes to participate, the system/school must submit to the State Board of Elementary and Secondary Education a request to retain the equipment purchased with Starting Points funds. Approval may be granted based on the assurance that the equipment will be used in programs with similar purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§521. Reporting

A. Each local school system/nonpublic school will be required to report data to the Louisiana Department of Education documenting the effectiveness of the program and the progress toward attaining program goals. The school system/nonpublic school must also submit a final budget detailing exactly how the allocated funds were spent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:275 (February 2002), LR 30:

§523. Monitoring

A Program Coordinators from the Elementary Standards Section will monitor the records of each program site annually to ensure compliance with federal and program requirements

B. The *Early Childhood Environment Rating Scale-Revised (ECERS-R)* will be used to measure the quality of the program. Each program with a new teacher and those programs receiving a score below 5.0 on the ECERS-R will be monitored on a yearly basis until an average score of 5.0 is attained on the scale. All continuing sites serving ten or more Starting Points children will be evaluated on a three-year cycle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended, LR 27:1685 (October 2001), LR 28:276 (February 2002), LR 30:

§525. Religious Activities

A. According to the federal regulations for Temporary Assistance to Needy Families Block Grant, funds provided "under grant or contract may not include sectarian worship or instruction."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:276 (February 2002), LR 30:

§527. Adherence to Regulations

A. Local school systems/nonpublic schools must adhere to all state and federal regulations and guidelines. Failure to do so will result in withdrawal of program funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 28:276 (February 2002), LR 30:

Interested persons may submit written comments until 4:30 p.m., June 9, 2004, 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: Bulletin 1934? Starting Points Preschool Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no increase in cost to state or local governmental units.

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.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no additional cost or economic benefits to any person or non-governmental groups. School systems personnel will now receive a more concise set of regulations that will govern their programs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0404#062

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1943? Policies and Procedures for Louisiana Teacher Assistance and Assessment (LAC 28:XXXVII.511, 701, 901, 1901, 1903, 2101-2105, 2303, 2305, 2501, and 2901)

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 revisions to *Bulletin 1943? Policies and Procedures for Louisiana Teacher Assistance and Assessment* (LAC 28:XXXVII). These changes to current Bulletin 1943 policy amend language and reflect procedural and programmatic changes needed to implement recommendations of the Blue Ribbon Commission that have been previously approved by the board. This amended language streamlines current policy and aligns Bulletin 1943 policy with Blue Ribbon Commission Year One recommendations related to improving teacher quality in Louisiana.

Title 28
EDUCATION
Part XXXVII. Bulletin 1943? Policies and Procedures for Louisiana Teacher Assistance and Assessment

Chapter 5. Assessment

§511. Timelines for Activities

Activity	Fall Semester Entry	Spring Semester Entry
Assignment of Mentor	Upon employment or entry to the school	
New Teacher Orientation to Assistance and Assessment Program (LEA)	First 2-3 weeks of employment	
Mentor/Teacher Activities	August-June	January-December
Informal and "Full" Observations of New Teacher by Principal or Designee and Mentor	February-April	September-November
Professional Growth Plan and Conference (Mentor, Principal, and New Teacher)	After "full" observation	
Assignment of Assessor Team	August-Year Two	January-Year Two
First Assessor Visit	September-October	January-February
Second Assessor Visit	October-November	February-March
Team Consensus Meeting	November-Early December	March-Early April
Teacher Summary Conference	By Mid-December	By Mid-April
Assessment Results and Recommendations Forwarded to LDE	By Mid-January	By Mid-May

Note: This is a general schedule for a typical school year. The LDE will prepare a recommended assessment schedule for each school year, outlining exact dates for completion of Assistance and Assessment Program activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:279 (February 2002), amended LR 30:

Chapter 7. Glossary

§701. Assessment Terminology

A. The Louisiana Teacher Assistance and Assessment Program makes use of specific terminology related to the practices and procedures of the assessment process. In order for consistency to be maintained on a statewide basis, the following list of terms is provided so that all parties involved with the process have a clear and common understanding of assessment terminology most frequently used.

Appeal? the process by which a teacher can request a review of assessment results and/or procedures.

***

External Assessor? an active faculty member of a college or university, a central office administrator, retired educator, experienced teacher, or other educators as deemed appropriate. The external assessor must be qualified to serve as an assessor by virtue of having completed the assessor training program and having met all requirements thereof.

***

Informal Conference? a discussion between the assessor or mentor and the new teacher which occurs prior to the classroom observation; the purposes are to share information about the lesson/classroom to be observed and to conduct a planning and student assessment interview; the interview is structured so that all new teachers are asked the same basic questions in the same order.

***

Postobservation Conference? a discussion between the new teacher and the assessor or mentor for the purpose of reviewing the observation, discussing congruency with the informal conference, and sharing commendations, insights, and ratings.

Professional Growth Plan? a written plan for improvement, based on the new teacher's self-assessment of areas for refinement and the mentor's and/or assessors' identification of areas for growth during the assistance and assessment cycles.

***

Team Summary Conference? a summary session in which ratings and information from the assessment instruments are provided to the new teacher by the assessors.

Team Summary Report? the report used to record final attribute and component scores and documentation summarizing the results of the assessment. The report is completed by all assessors at the end of the assessment cycle. The report is also used to record the status of the teacher with regard to accomplishment of the assessment standards for certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:279 (February 2002), amended LR 29:553 (April 2003), LR 30:

Chapter 9. Responsibilities

§901. Duties and Responsibilities of Each Party

A. - A.4.a.ii. ...

iii. conduct advisory informal conferences and observations with feedback using Louisiana Components of Effective Teaching;

a.iv. - c.ii. ...

iii. confer with the new teacher and principal to formulate a formal Professional Growth Plan (PGP) for the new teacher and to revise it as needed;

4.c.iv. - 5.c. ...

d. conduct at least one informal conference and one structured observation during the teacher's second semester of assistance and give feedback on his/her performance; work with the new teacher and mentor or mentor support team members to create and revise, as needed, a formal Professional Growth Plan (PGP);

5.f. - 6.b. ...

c. develop a comprehensive professional growth plan for and with each teacher assessed at the conclusion of the assessment semester.

7. - 7.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:280 (February 2002), amended LR 29:553 (April 2003), LR 30:

Chapter 19. Assessment Standards for Certification

§1901. Standards for Certification

A. The assessment standards for certification recommended by a standards setting panel convened by the State Superintendent of Education in June, 1994, adopted by the SBESE in the same month, and revised in Spring 2004 are:

1. achievement of a "competent", "2" rating on eight components of the Louisiana Components of Effective Teaching.

Note: For new teachers entering the first semester of LA TAAP in Spring 2004, the assessment standards will be the achievement of a competent (2) rating on the eight Components from Planning, Management, and Instruction. The department will review data collected from the Component of Professional Development and the two Components of School Improvement. Data pertaining to Professional Development and School Improvement will not be used to formulate any certification decision. Review of the assessment standards will occur as needed.

B. A teacher who does not meet this standard during semester three of employment in Louisiana public schools may be re-employed by the local school system for a fourth semester, during which time the teacher shall again participate in the Louisiana Teacher Assistance and Assessment Program. This second assessment period shall be treated as a second opportunity to meet the assessment standards for certification. No data or ratings from the first assessment period shall be used in determination of the teacher's ratings during this second year. Only the information from the professional growth plan will be used during the second assessment period to assist the teacher.

C. Failure of the teacher to meet the assessment standards for certification during the fourth semester of assistance and assessment shall result in a prohibition to teach in Louisiana Public Schools for a period of at least two years. During this period, the individual should complete the professional growth plan formulated with the assessment team at the conclusion of the second assessment period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:283 (February 2002), amended LR 30:

§1903. Reapplication for Entry into the Program

A. To reapply for entry into the assistance and assessment program after absence from teaching due to failure to meet the assessment standards for certification, a teacher must document to the employing school system and the Louisiana Department of Education that the last professional growth plan outlined by/with the previous support/assessment team has been completed to the extent possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:283 (February 2002), amended LR 30:

Chapter 21. Grievance Procedures for the Louisiana Teacher Assistance and Assessment Program

§2101. Due Process

A. ...

1. The assessed teacher shall receive copies of all teacher-signed documents: the Postobservation Conference Record, the Team Summary Report, and the Professional Growth Plan.

2. The assessed teacher may request, in writing, copies of any additional records used during the assessment process at the conclusion of the team summary conference, within 20 working days.

3. ...

4. The assessed teacher may, in either semester, file a written response (that may or may not lead to a formal grievance process) to the assessment as represented in the team summary report and supporting assessment records. This response may be filed at the end of the postobservation conference or the team summary conference, but no later than 10 working days after the receipt of the professional growth plan during the team conference. This response shall be permanently attached to the teacher summary report.

5. The assessed new teacher has the right to receive proof, by documentation, of any item contained in the assessment documents that the teacher believes to be inaccurate, invalid, or misrepresented. If documentation does not exist, the item in question must be amended or removed from the team summary report.

6. - 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:284 (February 2002), amended LR 30:

§2103. Grievance

A. - A.1. ...

a. Any assessed teacher who believes that he/she has a grievance may file the grievance at any time during the assessment process but not later than 20 working days after the team summary conference. The grievance must be in writing and shall state:

1.a.i. - 2.a.ii. ...

(a). a copy of the original assessment team's report on the assessed teacher's classroom performance (the team summary report);

(b). - b.i. ...

(a). dismiss the appeal for failing to have the official Request for Formal Hearing and/or the attachments required above[2];

(b). - 3.e. ...

[2] If a professional growth plan is in progress for the teacher, the Regional Hearing Officer may suspend the Plan, based on relevant evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:284 (February 2002), amended LR 30:

§2105. Glossary of Terminology

A. In order that the consistency in terminology be maintained on a statewide basis, a list of terms and definitions is being established to provide the reader with a clear and common understanding of the due process components and grievance procedures.

***

Assessor Error? intentional or unintentional deviation(s) by an assessor from the prescribed procedures set by the *Policies and Procedures for Louisiana Teacher Assistance and Assessment*, Bulletin 1943, June 1994, Revised April 1998, 2001, 2004.

***

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:286 (February 2002), amended LR 30:

Chapter 23. Assistance Program Procedures

§2303. Mentor/New Teacher Activities

A - B.2. ...

3. assistance with identification and collection of artifacts to be included in the new teacher portfolio;

4. mentor or mentor support team observations of the new teacher with appropriate feedback, including one or more observations that parallel those which will be conducted by assessors during the third (assessment) semester;

5. new teacher observations of the mentor or mentor support team and other teachers as appropriate;

6. one or more informal conferences conducted by the mentor or mentor support team that parallel those which will be conducted by assessors during the third (assessment) semester;

7. at least one visit to the new teacher by the building principal like that which will be conducted by assessors during the third assessment semester; i.e., informal conferences, observation feedback;

8. collaborative formulation by the mentor or mentor support team, principal, and new teacher of a formal professional growth plan for the new teacher. Said plan should be formulated after both mentor and principal have conducted informal conferences, and classroom observations;

9. provision of assistance to the new teacher by the mentor or mentor support team and others in understanding the characteristics of students, school, and community that can/will influence teaching and learning;

10. provision of assistance to the new teacher by the mentor or mentor support team and others in interpretation and use of student assessment data in improving instruction;

11. provision of assistance to the new teacher by the mentor or mentor support team and others in forming meaningful collaborative relationships with colleagues, parents, and the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:287 (February 2002), amended LR 30:

§2305. Second Semester Mentor/New Teacher Activities

A. ...

1. additional informal conferences and observations;

2. - 4. ...

5. continuing mentor or mentor support team assistance in gathering artifacts, analyzing data, and using information that will increase student learning and effective instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:287 (February 2002), amended LR 30:

Chapter 25. Assessment Procedures

§2501. Semester of Assessment

A. ...

1. Each assessor shall visit the new teacher and conduct an informal conference, observation, and postobservation conference, in that order.

2. The informal conference may be conducted one day prior to the scheduled observation, if that procedure is agreeable to both the assessor and the new teacher.

3. ...

4. An assessor should complete all responsibilities (informal conference, observation, postobservation conference) with one teacher before beginning assessment of another.

5. During each postobservation conference, the assessor and the new teacher will formulate improvement plans in accordance with the assessment data available. Professional growth is a continuous process which should not wait until all visits for assessment are completed.

6. ...

7. At the end of the semester, when both members of the assessment team have completed their visits and rated the new portfolio, they shall compare and combine their findings, share their consensus findings with the teacher being assessed, and prepare a comprehensive professional growth plan. Both members of the assessment team shall be present for this conference with the new teacher.

8. The assessment team will combine attribute ratings into component ratings in order to determine if the teacher being assessed has met the assessment standards for certification. In the event the two members of the assessment

team are in disagreement over the certification recommendation and the disagreement cannot be resolved, the principal/designee shall notify the LEA contact person of the impasse within two working days after the assessor team consensus meeting. Within five working days of this notification, the LEA contact person shall appoint a third assessor external to the school, who will conduct a third visit and participate in the certification decision. The assessment ratings, the resultant recommendations pertaining to the assessment standards for certification, and identified instructional strengths and needs of the teacher, will be shared at the summary conference and used to develop with the new teacher a new or modified professional growth plan.

9. At the conclusion of the summary conference, the new teacher shall be provided copies of the team summary report and the professional growth plan. If the teacher desires copies of observation and informal conference records not previously received, these records can also be requested in writing at this time.

10. - 11. ...

12. The new teacher may file a response to the assessment as represented in the team summary report and supporting assessment records. this response shall be permanently attached to the team summary report.

13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:287 (February 2002), amended LR 30:

Chapter 29. Monitoring Guidelines

§2901. Monitoring Procedures

A. - A.1. ...

2. visit the LEA (length of time spent in the LEA will be determined by size of the LEA) to determine compliance or failure to comply. During each visit, the monitoring team will:

a. meet with LEA designee to explain the nature and duration of the visit (attendance by LEA superintendent is optional);

b. meet with the LEA assistance and assessment contact person and/or other appropriate personnel to discuss the schedule;

c. conduct a summary session with the LEA superintendent, contact person, and/or other appropriate personnel;

3. inform the LEA in writing of compliance, the areas of noncompliance, and of recommendations;

4. notify the SBESE of system(s) that are in compliance and those that failed to comply;

5. make recommendations to the SBESE regarding action to be taken in situations of noncompliance;

6. failure of local school systems to implement the procedures outlined in the bulletin according to R.S. 17:3883, can result in the department recommending to the board whatever sanctions against such school system the department deems appropriate which may include withholding funds distributed pursuant to the minimum foundation program formula until the corrections are made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10; R.S. 17:3871-3873; R.S. 17:3881-3884; R.S. 17:3891-3895; R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:289 (February 2002), amended LR 30:

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 or 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? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit comments until 4:30 p.m., June 9, 2004, to Nina Ford, State 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: Bulletin 1943? Policies and Procedures for Louisiana Teacher Assistance and Assessment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These changes to current *Bulletin 1943* policy reflect procedural and programmatic changes needed to implement recommendations of the Blue Ribbon Commission that have been previously approved by the Board. The changes include new methods of data collection which includes a New Teacher Portfolio, and rewording of the Professional Development Plan to professional growth plan. The adoption of this policy will cost the Department of Education approximately $700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance

H. Gordon Monk
Staff Director
Legislative Fiscal Office

0404#063

NOTICE OF INTENT

Tuition Trust Authority
Office of Student Financial Assistance

START Savings Program? Interest Rates 2004
(LAC 28:VI.315)

The Louisiana Tuition Trust Authority announces its intention to amend its START Savings Program rules (R.S. 17:3091 et seq.).

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

The text of this proposed Rule may be viewed in the Emergency Rule section of this edition of the *Louisiana Register*.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., May 10, 2004 to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: START Savings Program Interest Rates 2004

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs or savings to state or local governmental units as a result of these changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections to the Office of Student Financial Assistance is anticipated to result from these changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups. The rule change does not effect or cause a change in the interest rates paid for deposits and Earnings Enhancements, but rather reports the actual rates of earnings achieved by the investments of the State Treasurer. The incorporation of the interest rates in the rule is required by LSA-R.S. 17:3095(E)(2).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
0404#075

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Bacterial Criteria for Primary and Secondary Contact Recreation Uses and Drinking Water Supply
(LAC 33:IX.107, 1105, 1111, 1113, and 1123)(WQ053)

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 Water Quality regulations, LAC 33:IX.107, 1105, 1111, 1113, and 1123 (Log #WQ053).

This proposed Rule clarifies criteria and assessment methods that may be used by the department to assess whether designated uses of water bodies for primary and secondary contact recreation and drinking water supply are being supported. This revision clarifies existing criteria and assessment methods in order to better define the intent of the original regulation. The basis and rationale for this proposed Rule are to more accurately reflect the department's intent and responsibilities regarding bacterial water quality criteria and assessments used to determine support for designated uses.

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 IX. Water Quality
Subpart 1. Water Pollution Control

Chapter 1. General Provisions

§107. Definitions

* * *

Designated Use? a use of the waters of the state as established by the water quality standards provided in LAC 33:IX.1111. These uses include, but are not limited to, primary and secondary contact recreation, fish and wildlife propagation, drinking water supply, oyster propagation, agriculture, and outstanding natural resource waters.

* * *

Primary Contact Recreation? any recreational or other water contact use–involving prolonged or regular full-body contact with the water and in which the probability of ingesting appreciable amounts of water is considerable. Examples of this type of water use include swimming, skiing, and diving.

* * *

Secondary Contact Recreation? any recreational or other water contact use in which body contact with the water is

either incidental or accidental and the probability of ingesting appreciable amounts of water is minimal. Examples of this type of water use include fishing, wading, and boating.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074 (B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2538 (November 2000), LR 30:

Chapter 11. Surface Water Quality Standards

§1105. Definitions

* * *

Designated Use? a use of the waters of the state as established by the water quality standards provided in LAC 33:IX.1111. These uses include, but are not limited to, primary and secondary contact recreation, fish and wildlife propagation, drinking water supply, oyster propagation, agriculture, and outstanding natural resource waters.

* * *

Primary Contact Recreation? any recreational or other water contact use involving prolonged or regular full-body contact with the water and in which the probability of ingesting appreciable amounts of water is considerable. Examples of this type of water use include swimming, skiing, and diving.

* * *

Secondary Contact Recreation? any recreational or other water contact use in which body contact with the water is either incidental or accidental and the probability of ingesting appreciable amounts of water is minimal. Examples of this type of water use include fishing, wading, and boating.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2401 (December 1999), LR 26:2545 (November 2000), LR 29:557 (April 2003), LR 30:

§1111. Water Use Designations

There are seven water uses designated for surface waters in Louisiana: primary contact recreation, secondary contact recreation, fish and wildlife propagation, drinking water supply, oyster propagation, agriculture, and outstanding natural resource waters. Designated uses assigned to each subsegment apply to all water bodies (listed water body and tributaries/distributaries of the listed water body) contained in that subsegment unless unique chemical, physical, and/or biological conditions preclude such uses. However, the designated uses of drinking water supply, oyster propagation, and/or outstanding natural resource waters apply only to the water bodies specifically named in Table 3, LAC 33:IX.1123, and not to any tributaries and distributaries to such water body, which are typically contained in separate subsegments. A description of each designated use follows.

A. Primary Contact Recreation. Primary contact recreation is any recreational or other water contact use involving prolonged or regular full-body contact with the water and in which the probability of ingesting appreciable amounts of water is considerable. Examples of this type of water use include swimming, skiing, and diving.

B. Secondary Contact Recreation. Secondary contact recreation is any recreational or other water contact use in which body contact with the water is either incidental or accidental and the probability of ingesting appreciable amounts of water is minimal. Examples of this type of water use include fishing, wading, and boating.

C. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2401 (December 1999), LR 26:2546 (November 2000), LR 30:

§1113. Criteria

A. - C.4.c. …

5. Bacteria. The applicability of bacterial criteria to a particular stream subsegment depends upon the use designation of that individual stream subsegment. Criteria are established to protect water quality commensurate with the most stringent designated use assigned to the subsegment. Applicable bacterial criteria for the most stringent designated use of each individual Louisiana stream subsegment are listed in the "BAC" column of Table 3, LAC 33:IX.1123. For water quality monitoring and assessment purposes the following criteria shall be used to determine support for the designated uses.

a. Primary Contact Recreation. No more than 25 percent of the total samples collected on a monthly or near-monthly basis shall exceed a fecal coliform density of 400/100 mL. This primary contact recreation criterion shall apply only during the defined recreational period of May 1 through October 31. During the nonrecreational period of November 1 through April 30, the criteria for secondary contact recreation shall apply.

b. Secondary Contact Recreation. No more than 25 percent of the total samples collected on a monthly or near-monthly basis shall exceed a fecal coliform density of 2,000/100 mL. This secondary contact recreation criterion shall apply year round.

c. Drinking Water Supply. No more than 30 percent of the total samples collected on a monthly or near-monthly basis shall exceed a fecal coliform density of 2,000/100 mL.

d. Oyster Propagation. The fecal coliform median most probable number (MPN) shall not exceed 14 fecal coliforms per 100 mL, and not more than 10 percent of the samples shall exceed an MPN of 43 per 100 mL for a five-tube decimal dilution test in those portions of the area most probably exposed to fecal contamination during the most unfavorable hydrographic and pollution conditions.

C.6. - Table 1A.Footnote d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November 1991), amended LR 20:883 (August 1994), LR 24:688 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2402

(December 1999), LR 26:2547 (November 2000), LR 27:289 (March 2001), LR 30:

§1123. Numerical Criteria and Designated Uses

A. - C.2. …

3. Designated Uses. The following are the category definitions of Designated Uses that are used in Table 3 under the subheading "Designated Uses."

A—Primary Contact Recreation

B—Secondary Contact Recreation

C—Fish and Wildlife Propagation

L—Limited Aquatic Life and Wildlife Use

D—Drinking Water Supply

E—Oyster Propagation

F—Agriculture

G—Outstanding Natural Resource Waters

Numbers in brackets, e.g. [1], refer to endnotes listed at the end of the table.

Table 3. Numerical Criteria and Designated Uses										
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters										
Code	Stream Description	Designated Uses	Numerical Criteria							
			CL	SO_4	DO	pH	BAC	°C	TDS	
* * *										
[See Prior Text in 010101 - 120806]										

ENDNOTES:

[1] – [23] …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:

A public hearing will be held on May 25, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ053. Such comments must be received no later than June 1, 2004, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Environmental Planning Division, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ053.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at http://www.deq.louisiana.gov/planning/regs/index.htm.

James H. Brent, Ph.D.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bacterial Criteria for Primary and Secondary Contact Recreation Uses and Drinking Water Supply

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed Rule is expected to have no significant effect on state or local governmental expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant effect on state or local governmental revenue collections is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant costs and/or economic benefits to directly affected persons or non-governmental groups are anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect on competition or employment is anticipated.

James H. Brent
Assistant Secretary
0404#028

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Fee Number for Title V Facilities
(LAC 33:III.223)(AQ243)

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 Air regulations, LAC 33:III.223 (Log #AQ243).

Changes are proposed to the Fee Schedule Listing to add a new fee number to differentiate between Title V and Non-Title V facilities reporting under the current Fee Number 2300 for criteria pollutant annual fees. No new fee is being added. The change is simply adding a new fee number so the department can differentiate revenues collected by facility type and fee number. The basis and rationale for this Rule are to add a new fee number so the department can distinguish criteria pollutant annual fees by facility type.

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 III. Air
Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs
§223. Fee Schedule Listing

Table 1						
Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
***						
[See Prior Text in 0010-1722]						

Table 2		
Additional Fees		
Fee Number	Fee Description	Amount
***		
[See Prior Text in 2000-2200]		
2300 *Note 14*	Criteria Pollutant Annual Fee Per Ton Emitted on an Annual Basis (Non-Title V Facility): Nitrogen oxides (NO_x) Sulfur dioxide (SO_2) Non-toxic organic (VOC) Particulate (PM_{10})	12.83/ton
2310 *Note 14*	Criteria Pollutant Annual Fee Per Ton Emitted on an Annual Basis (Title V Facility): Nitrogen oxides (NO_x) Sulfur dioxide (SO_2) Non-toxic organic (VOC) Particulate (PM_{10})	12.83/ton
***		
[See Prior Text in 2400-2914]		

Explanatory Notes for Fee Schedule
Note 1 - Note 20 …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 2341 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496, 1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:672 (May 2003), LR 29:2042 (October 2003), LR 30:

A public hearing will be held on May 25, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ243. Such comments must be received no later than June 1, 2004, at

4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Environmental Planning Division, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ243.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at http://www.deq.louisiana.gov/planning/regs/index.htm.

James H. Brent, Ph.D.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Fee Number for Title V Facilities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units from implementing this Rule.

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 costs and/or economic benefits from implementing this Rule. No new fee is being added. The change is simply adding a new fee number to differentiate between Title V and Non-Title V facilities. This will allow the department to differentiate revenues collected by facility type and fee number.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment since all facilities will be charged the same fee regardless of their status with the department.

James H. Brent, Ph.D.	Robert E. Hosse
Assistant Secretary	General Government Section Director
0404#027	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Medical Use of Radioactive Material
(LAC 33:XV.102, 104, 492, 703, 704, 709, 710, 712, 715, 716, 717, 719, 726, 728, 729, 731, 735, 736, 737, 739, 741, 742, 743, 744, 745, 747, 748, 750, 751, 755, 756, 757, 758, 759, 762, 763, and 777)(RP034*)

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 Radiation Protection regulations, LAC 33:XV.102, 104, 492, 703, 704, 709, 710, 712, 715, 716, 717, 719, 726, 728, 729, 731, 735, 736, 737, 739, 741, 742, 743, 744, 745, 747, 748, 750, 751, 755, 756, 757, 758, 759, 762, 763, and 777 (Log #RP034*).

This proposed Rule is identical to federal regulations found in 68 FR 19466-19470 (April 21, 2003); 67 FR 62872 (October 9, 2002); and 67 FR 20349-20397 (April 24, 2002), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. No fiscal or economic impact will result from the proposed Rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed Rule amends regulations regarding the medical use of radioactive material. The Rule focuses on those medical procedures that pose the highest risk to workers, patients, and the public, and structures the regulations to be more risk-informed and performance-based. This rulemaking is necessary to maintain delegation and authorization granted to Louisiana by the Nuclear Regulatory Commission and the Environmental Protection Agency and to keep Louisiana's radiation protection program current with its federal counterpart. The basis and rationale for this Rule are to mirror the federal regulations and to protect and inform the workers, patients, and public regarding medical procedures that pose the highest risk.

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 XV. Radiation Protection

Chapter 1. General Provisions

§102. Definitions and Abbreviations

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain chapter may be found in that chapter.

* * *

Address of Use? the building or buildings that are identified on the license and where radioactive material may be received, prepared, used, or stored.

* * *

Authorized Medical Physicist? an individual who is identified as an authorized medical physicist or teletherapy physicist on:

1. a specific medical use license issued by the department, the U.S. Nuclear Regulatory Commission, or an agreement state;

2. a medical use permit issued by a U.S. Nuclear Regulatory Commission master material licensee;

3. a permit issued by the department, the U.S. Nuclear Regulatory Commission, or an agreement state broad scope medical use licensee; or

4. a permit issued by a U.S. Nuclear Regulatory Commission master material license broad scope medical use permittee.

* * *

Brachytherapy Source? a radioactive source or a manufacturer-assembled source train or a combination of these sources that is designed to deliver a therapeutic dose within a distance of a few centimeters.

* * *

Client's Address? the area of use or a temporary jobsite for the purpose of providing mobile medical service in accordance with LAC 33:XV.726.

* * *

Dentist? an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice dentistry.

* * *

High Dose-Rate Remote Afterloader? a brachytherapy device that remotely delivers a dose rate in excess of 12 gray (1200 rads) per hour at the point or surface where the dose is prescribed.

* * *

Low Dose-Rate Remote Afterloader? a brachytherapy device that remotely delivers a dose rate of less than or equal to 2 gray (200 rads) per hour at the point or surface where the dose is prescribed.

* * *

Manual Brachytherapy? a type of brachytherapy in which the brachytherapy sources (e.g., seeds, ribbons) are manually placed topically on or inserted either into the body cavities that are in close proximity to a treatment site or directly into the tissue volume.

Medical Event? an event that meets the criteria in LAC 33:XV.712.A.

* * *

Medium Dose-Rate Remote Afterloader? a brachytherapy device that remotely delivers a dose rate of greater than 2 gray (200 rads), but less than 12 gray (1200 rads), per hour at the point or surface where the dose is prescribed.

* * *

Metric Prefixes and Abbreviations?

c	centi	($=10^{-2}$)	f	femto	($=10^{-15}$)
m	milli	($=10^{-3}$)	k	kilo	($=10^{3}$)
?	micro	($=10^{-6}$)	M	mega	($=10^{6}$)
n	nano	($=10^{-9}$)	G	giga	($=10^{9}$)
p	pico	($=10^{-12}$)	T	tera	($=10^{12}$)

***

Misadministration? Repealed.

Mobile Medical Service? the transportation of radioactive material to, and its medical use at, the client's address.

* * *

Output? the exposure rate, dose rate, or a quantity related in a known manner to these rates from a brachytherapy source or a teletherapy unit, a remote afterloader, or a gamma stereotactic radiosurgery unit for a specified set of exposure conditions.

* * *

Patient Intervention—actions by the patient or human research subject, whether intentional or unintentional, such as dislodging or removing treatment devices or prematurely terminating the administration.

* * *

Physician? a medical doctor or doctor of osteopathy licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to prescribe drugs in the practice of medicine, or who is authorized to practice medicine under the provisions of R.S. 37:1261 et seq.

Podiatrist? an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice podiatry.

Preceptor? an individual who provides or directs the training and experience required for an individual to become an authorized user, an authorized medical physicist, an authorized nuclear pharmacist, or a radiation safety officer.

* * *

Prescribed Dose?

1. - 2. …

3. for manual brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive; or

4. for remote brachytherapy afterloaders, the total dose and dose per fraction in the written directive.

* * *

Pulsed Dose-Rate Remote Afterloader? a special type of remote afterloading brachytherapy device that uses a single source capable of delivering dose rates in the "high dose-rate" range, but:

1. is approximately one-tenth of the activity of typical high dose-rate remote afterloader sources; and

2. is used to simulate the radiobiology of a low dose-rate treatment by inserting the source for a given fraction of each hour.

* * *

Sealed Source and Device Registry? the national registry that contains all the registration certificates, generated by both the U.S. Nuclear Regulatory Commission and the agreement states, that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for the products.

* * *

Stereotactic Radiosurgery? the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a therapeutic dose to a tissue volume.

Structured Educational Program? an educational program designed to impart particular knowledge and practical education through interrelated studies and supervised training.

* * *

Therapeutic Dosage? a dosage of unsealed radioactive material that is intended to deliver a radiation dose to a patient or human research subject for palliative or curative treatment.

Therapeutic Dose? a radiation dose delivered from a source containing radioactive material to a patient or human research subject for palliative or curative treatment.

* * *

Treatment Site? the anatomical description of the tissue intended to receive a radiation dose, as described in a written directive.

Type of Use? use of radioactive material as described in LAC 33:XV.729, 731, 735, 739, 741, or 747.

* * *

Unit Dosage? a dosage prepared for medical use for administration as a single dosage to a patient or human research subject without any further manipulation of the dosage after it is initially prepared.

* * *

Year? the period of time beginning in January used to determine compliance with the provisions of these regulations. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2563 (November 2000), LR 26:2767 (December 2000), LR 30:

§104. Records

A. - C. …

D. Each licensee and registrant shall maintain the records required by LAC 33:XV.104, 421, 451, and all other applicable portions of these regulations at the authorized location of storage and/or use.

E. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

Chapter 4. Standards for Protection Against Radiation

Subchapter J. Reports

§492. Reports of Leaking or Contamination From Sealed Sources

A. The licensee or registrant shall file a report within five days with the Office of Environmental Compliance using the procedures provided in LAC 33:I.3925 if the test for leakage or contamination required in accordance with LAC 33:XV.426 indicates a sealed source is leaking or a source of contamination. The report shall include the equipment involved, its model number and serial number if assigned, the estimated activity of the source, the test results, the date of the test, and the corrective action taken.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2580 (November 2000), LR 30:

Chapter 7. Use of Radionuclides in the Healing Arts

§703. License Amendments and Provisions for Research Involving Human Subjects

A. - A.6. …

B. A licensee may conduct research involving human subjects using radioactive material, provided that the research is conducted, funded, supported, or regulated by a federal agency that has implemented the Federal Policy for the Protection of Human Subjects.

C. If the research will not be conducted, funded, supported, or regulated by a federal agency that has implemented the Federal Policy for the Protection of Human Subjects, the licensee shall, before conducting research, apply for and receive a specific amendment to its U.S. Nuclear Regulatory Commission medical use license. The amendment request must include a written commitment that the licensee will, before conducting research:

1. obtain review and approval of the research from an *Institutional Review Board*, as defined and described in the Federal Policy; and

2. obtain *informed consent*, as defined and described in the Federal Policy, from the human research subject.

D. Nothing in this Section relieves licensees from complying with the other requirements in this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2101 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2587 (November 2000), LR 30:

§704. Notifications

A. - B. …

1. an authorized user, an authorized nuclear pharmacist, a radiation safety officer, or an authorized medical physicist permanently discontinues performance of duties under the license or has a name change; or

2. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2101 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2587 (November 2000), LR 30:

§709. Supervision

A. - A.1. …

2. require the supervised individual to follow the instructions of the supervising authorized user, written radiation protection procedures established by the licensee, written directive procedures, regulations of this Chapter, and license conditions with respect to the medical use of radioactive material;

3. review the supervised individual's use of radioactive material, provide reinstruction as needed, and review records kept to reflect this use;

4. require the authorized user to be immediately available to communicate with the supervised individual;

5. require the authorized user to be able to be physically present and available to the supervised individual on one hour's notice (The supervising authorized user need not be present for each use of radioactive material.); and

6. require that only those individuals specifically trained, and designated by the authorized user, shall be permitted to administer radionuclides or radiation to patients.

B. - D. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2102 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§710. Report and Notification of a Dose to an Embryo/Fetus or a Nursing Child

A. A licensee shall report any dose to an embryo/fetus that is greater than 50 mSv (5 rem) dose equivalent that is a result of an administration of radioactive material to a pregnant individual unless the dose to the embryo/fetus was specifically approved, in advance, by the authorized user.

B. A licensee shall report any dose to a nursing child that is a result of an administration of radioactive material to a breast-feeding individual that:

1. is greater than 50 mSv (5 rem) total effective dose equivalent; or

2. has resulted in unintended permanent functional damage to an organ or a physiological system of the child, as determined by a physician.

C. The licensee shall notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 no later than the next calendar day after discovery of a dose to the embryo/fetus or nursing child that requires a report in accordance with Subsection A or B of this Section.

D. The licensee shall submit a written report to the Office of Environmental Compliance in the manner provided in LAC 33:I.3925 within 15 days after discovery of a dose to the embryo/fetus or nursing child that requires a report in accordance with Subsection A or B of this Section.

1. The written report shall include:

a. the licensee's name;

b. the name of the prescribing physician;

c. a brief description of the event;

d. why the event occurred;

e. the effect, if any, on the embryo/fetus or the nursing child;

f. what actions, if any, have been taken or are planned to be taken to prevent recurrence; and

g. certification that the licensee notified the pregnant individual or mother (or the mother's or child's responsible relative or guardian) in accordance with Subsection E of this Section and, if not, why not.

2. The report shall not contain the individual's or child's name or any other information that could lead to identification of the individual or child.

E. The licensee shall provide notification of the event to the referring physician and also notify the pregnant individual or mother, both hereafter referred to as "the mother," no later than 24 hours after discovery of an event that would require reporting in accordance with Subsection A or B of this Section, unless the referring physician personally informs the licensee either that he or she will inform the mother or that, based on medical judgment, telling the mother would be harmful. The licensee is not required to notify the mother without first consulting with the referring physician. If the referring physician or mother cannot be reached within 24 hours, the licensee shall make the appropriate notifications as soon as possible thereafter. The licensee may not delay any appropriate medical care for the embryo/fetus or for the nursing child, including any necessary remedial care as a result of the event, because of any delay in notification. To meet the requirements of this Subsection, the notification may be made to the mother's or child's responsible relative or guardian instead of to the mother. If a verbal notification is made, the licensee shall inform the mother, or the mother's or child's responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide such a written description if requested.

F. A licensee shall:

1. annotate a copy of the report provided to the Office of Environmental Compliance, SPOC with:

a. the name of the pregnant individual or the nursing child who is the subject of the event; and

b. the social security number or other identification number, if one has been assigned, of the pregnant individual or the nursing child who is the subject of the event; and

2. provide a copy of the annotated report to the referring physician, if other than the licensee, no later than 15 days after the discovery of the event.

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 30:

§712. Notifications, Reports, and Records of Medical Events

A. A licensee shall report any medical event, except for an event that results from patient intervention, in which the administration of radioactive material or radiation from radioactive material results in:

1. a dose that differs from the prescribed dose, or the dose that would have resulted from the prescribed dosage, by more than 0.05 Sv (5 rem) effective dose equivalent, (0.5 Sv (50 rem) to an organ or tissue), or 0.5 Sv (50 rem) shallow dose equivalent to the skin, where:

a. the total dose delivered differs from the prescribed dose by 20 percent or more;

b. the total dosage delivered differs from the prescribed dosage by 20 percent or more or falls outside the prescribed dosage range; or

c. the fractionated dose delivered differs from the prescribed dose, for a single fraction, by 50 percent or more;

2. a dose that exceeds 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin from any of the following:

a. an administration of a wrong radioactive drug;

b. an administration of a radioactive drug by the wrong route of administration;

c. an administration of a dose or dosage to the wrong individual or human research subject;

d. an administration of a dose or dosage delivered by the wrong mode of treatment; or

e. a leaking sealed source; or

3. a dose to the skin or an organ or tissue other than the treatment site that exceeds 0.5 Sv (50 rem) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site).

B. A licensee shall report any event resulting from intervention of a patient or human research subject in which the administration of radioactive material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.

C. The following notifications are required for a medical event.

1. The licensee shall notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 no later than the next calendar day after discovery of the medical event.

2. The licensee shall submit a written report to the Office of Environmental Compliance using the procedures in LAC 33:I.3925 within 15 days after discovery of the medical event. The written report shall include the licensee's name; the prescribing physician's name; a brief description of the event; why the event occurred; the effect on the individual who received the administration; what improvements are needed to prevent recurrence; actions taken to prevent recurrence; whether the licensee notified the individual, or the individual's responsible relative or guardian, and if not, why not; and if the individual was notified, what information was provided to the individual. The report shall not include the individual's name or other information that could lead to identification of the individual. To meet the requirements of this Section, the notification of the medical event may be made to the individual or instead to that individual's responsible relative or guardian, when appropriate.

3. The licensee shall notify the referring physician and also notify the individual who is the subject of the medical event no later than 24 hours after its discovery, unless the referring physician personally informs the licensee either that he will inform the individual or that, based on medical judgement, telling the individual would be harmful. The licensee is not required to notify the individual without first consulting the referring physician. If the referring physician or the affected individual cannot be reached within 24 hours, the licensee shall notify the individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the individual, including any necessary remedial care as a result of the medical event, because of any delay in notification. To meet the requirements of this Paragraph, the notification to the individual who is the subject of the medical event may be made instead to that individual's responsible relative or guardian. If a verbal notification is made, the licensee shall inform the individual, or appropriate responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide such a written description if requested.

4. If the individual was notified, the licensee shall also furnish, within 15 days after discovery of the medical event, a written report to the individual by sending either:

a. a copy of the report that was submitted to the department; or

b. a brief description of both the event and the consequences as they may affect the individual, provided a statement is included that the report submitted to the department can be obtained from the licensee.

D. Each licensee shall retain a record of each medical event for five years. The record shall contain the names of all individuals involved (including the prescribing physician, allied health personnel, the individual affected by the medical event, and the individual's referring physician), the individual's social security number or identification number if one has been assigned, a brief description of the medical event, why it occurred, the effect on the individual, what improvements are needed to prevent recurrence, and the actions taken to prevent recurrence.

E. Aside from the notification requirement, nothing in this Section affects any rights or duties of licensees and physicians in relation to each other, the individual, or the individual's responsible relatives or guardians.

F. A licensee shall:

1. annotate a copy of the report provided to the department with:

a. the name of the individual who is the subject of the event; and

b. the social security number or other identification number, if one has been assigned, of the individual who is the subject of the event; and

2. provide a copy of the annotated report to the referring physician, if other than the licensee, no later than 15 days after the discovery of the event.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2102 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2588 (November 2000), LR 30:

§715. Possession, Use, Calibration, and Checking of Dose Calibrators and of Instruments to Measure Dosages of Alpha-Emitting or Beta-Emitting Radionuclides

A. For direct measurements performed in accordance with LAC 33:XV.717, a licensee shall possess and use instrumentation to measure the activity of unsealed radioactive material before it is administered to each patient or human research subject.

B. - C. …

D. A licensee shall also perform checks and tests required by Subsection B of this Section following adjustment or repair of the dose calibrator.

E. A licensee shall retain a record of each check and test required by this Section for two years. The records for the checks and tests required by Subsection B of this Section shall include:

1. for Paragraph B.1 of this Section, the model and serial number of the dose calibrator, the identity and calibrated activity of the radionuclide contained in the check source, the date of the check, the activity measured, the instrument settings, and the initials of the individual who performed the check;

2. for Paragraph B.2 of this Section, the model and serial number of the dose calibrator, the model and serial number of each source used and the identity of the radionuclide contained in the source and its activity, the date of the test, the results of the test, the instrument settings, and the signature of the radiation safety officer;

3. for Paragraph B.3 of this Section, the model and serial number of the dose calibrator, the calculated activities, the measured activities, the date of the test, and the signature of the radiation safety officer; and

4. for Paragraph B.4 of this Section, the model and serial number of the dose calibrator, the configuration and calibrated activity of the source measured, the activity of the source, the activity measured and the instrument setting for each volume measured, the date of the test, and the signature of the radiation safety officer.

F. - F.2.b. …

G. A licensee shall calibrate the instrumentation required in Subsection A of this Section in accordance with nationally-recognized standards or the manufacturer's instructions.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2103 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§716. Calibration and Checking of Survey Instruments

A. …

B. To satisfy the requirements of Subsection A of this Section, the licensee shall:

1. - 3. …

C. To satisfy the requirements of Subsection B of this Section, the licensee shall consider a point as calibrated if the indicated exposure rate differs from the calculated exposure rate by not more than 20 percent, and shall conspicuously attach a correction chart or graph to the instrument. A licensee may not use survey instruments if the difference between the indicated exposure rate and the calculated exposure rate is more than the allowed 20 percent.

D. …

E. The licensee shall retain a record of each calibration required in Subsection A of this Section for two years. The record shall include:

1. - 2. …

F. To meet the requirements of Subsections A, B, and C of this Section, the licensee may obtain the services of individuals licensed by the department, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state to perform calibrations of survey instruments. Records of calibrations that contain information required by Subsection E of this Section shall be maintained by the licensee.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 30:

§717. Assay of Radiopharmaceutical Dosages

A. A licensee shall determine and record the activity of each dosage before medical use.

B. For a unit dosage, this determination shall be made by:

1. direct measurement of radioactivity; or

2. a decay correction, based on the activity or activity concentration determined by:

a. a manufacturer or preparer licensed under LAC 33:XV.328.J or equivalent agreement state requirements; or

b. a U.S. Nuclear Regulatory Commission or agreement state licensee, for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA.

C. For other than unit dosages, this determination shall be made by:

1. direct measurement of radioactivity;

2. a combination of measurement of radioactivity and mathematical calculations; or

3. a combination of volumetric measurements and mathematical calculations, based on the measurement made by a manufacturer or preparer licensed under LAC 33:XV.328.J or equivalent agreement state requirements.

D. Unless otherwise directed by the authorized user, a licensee may not use a dosage if the dosage does not fall within the prescribed dosage range or if the dosage differs from the prescribed dosage by more than 20 percent.

E. A licensee shall retain a record of the dosage determination required by this Section for three years. The record shall contain:

1. the radiopharmaceutical;

2. the patient's or human research subject's name or identification number, if one has been assigned;

3. the prescribed dosage, the determined dosage, or a notation that the total activity is less than 1.1 MBq (30 µCi);

4. the date and time of the dosage determination; and

5. the name of the individual who determined the dosage.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2103 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§719. Requirements for Possession of Sealed Sources and Brachytherapy Sources

A. - B.2. …

C. To satisfy the leak test requirements of Subsection B of this Section, the licensee shall assure that:

C.1. - H. …

I. A licensee shall retain a record of each survey required in Subsection H of this Section for two years. The record shall include the date of the survey, a sketch of each area that was surveyed, the measured dose rate at several points in each area expressed in milliroentgens per hour, the model number and serial number of the survey instrument

used to make the survey, and the signature of the radiation safety officer.

J. Before the first medical use of a brachytherapy source on or after October 24, 2002, a licensee shall have:

1. determined the source output or activity using a dosimetry system that meets the requirements of LAC 33:XV.755.A;

2. determined source positioning accuracy within applicators; and

3. used published protocols currently accepted by nationally-recognized bodies to meet the requirements of Paragraphs J.1 and J.2 of this Section.

K. A licensee may use measurements provided by the source manufacturer or by a calibration laboratory accredited by the American Association of Physicists in Medicine that are made in accordance with Subsection J of this Section.

L. A licensee shall mathematically correct the outputs or activities determined in Subsection A of this Section for physical decay at intervals consistent with 1 percent physical decay.

M. A licensee shall retain a record of each calibration in accordance with LAC 33:XV.744.B.

N. Only an authorized medical physicist shall calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay shall be based on the activity determined in accordance with Subsections J-M of this Section.

O. A licensee shall retain a record of the activity of each strontium-90 source in accordance with LAC 33:XV.744.C.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 30:

§726. Mobile Medical Service Technical Requirements

A. A licensee providing mobile medical services shall do the following.

1. Obtain a letter signed by the management of each client for which services are rendered that permits the use of radioactive material at the client's address and clearly delineates the authority and responsibility of the licensee and the client.

2. Check instruments used to measure the activity of unsealed radioactive material for proper function before medical use at each client's address or on each day of use, whichever is more frequent. At a minimum, the check for proper function required by this Paragraph shall include a constancy check.

3. Check survey instruments for proper operation with a dedicated check source before use at each client's address.

4. Before leaving a client's address, survey all areas of use to ensure compliance with the requirements in LAC 33:XV.Chapter 4.

B. A mobile medical service may not have radioactive material delivered from the manufacturer or the distributor to the client unless the client has a license allowing possession of the radioactive material. Radioactive material delivered to the client shall be received and handled in conformance with the client's license.

C. A licensee providing mobile medical services shall retain a copy of each letter that permits the use of radioactive material at a client's address, as required by Paragraph A.1 of this Section. Each letter shall be retained for three years after the last provision of service.

D. A licensee providing mobile medical services shall retain the record of each survey required by Paragraph A.4 of this Section for three years. The record shall include the date of the survey, the results of the survey, the instrument used to make the survey, and the name of the individual who performed the survey.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§728. Decay-in-Storage

A. - A.2. …

3. removes or obliterates all radiation labels, except for radiation labels on materials that are within containers and that will be managed as biomedical waste after they have been released from the licensee; and

4. …

B. For radioactive material disposed in accordance with Subsection A of this Section, the licensee shall retain a record of each disposal for two years. The record must include the date of the disposal, the date on which the radioactive material was placed in storage, the radionuclides disposed, the model and serial number of the survey instrument used, the background dose rate, the radiation dose rate measured at the surface of each waste container, and the name of the individual who performed the disposal.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1238 (August 2001), LR 30:

§729. Use of Radiopharmaceuticals for Uptake, Dilution, or Excretion Studies

A. - A.7. …

B. A licensee using a radiopharmaceutical specified in Subsection A of this Section for a clinical procedure other than one specified in the product label or package insert instructions shall comply with the product label or package insert instructions regarding physical form, route of administration, and dosage range.

C. The radiopharmaceuticals specified in Subsection A of this Section shall be:

1. obtained from a manufacturer or preparer licensed in accordance with LAC 33:XV.328.J or equivalent Nuclear Regulatory Commission or agreement state requirements;

2. prepared by an authorized nuclear pharmacist, a physician who is an authorized user and who meets the requirements specified in LAC 33:XV.763.C, or an individual under the supervision of either as specified in LAC 33:XV.709;

3. obtained from and prepared by a Nuclear Regulatory Commission or agreement state licensee, for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA; or

4. prepared by the licensee, for use in research in accordance with a Radioactive Drug Research Committee-approved application or an IND protocol accepted by FDA.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§731. Use of Radiopharmaceuticals, Generators, and Reagent Kits For Imaging and Localization Studies

A. - C. …

D. Technetium-99m pentetate as an aerosol for lung function studies is not subject to the restrictions in Subsection B of this Section.

E. - F.2. …

G. Except for quantities that require a written directive in accordance with LAC 33:XV.777.B, a licensee may use any unsealed radioactive material prepared for medical use for imaging and localization studies that is:

1. obtained from a manufacturer or preparer licensed under LAC 33:XV.328.J or equivalent agreement state requirements;

2. prepared by an authorized nuclear pharmacist, a physician who is an authorized user and who meets the requirements specified in LAC 33:XV.763.D, or an individual under the supervision of either as specified in LAC 33:XV.709;

3. obtained from and prepared by a Nuclear Regulatory Commission or agreement state licensee, for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA; or

4. prepared by the licensee, for use in research in accordance with a Radioactive Drug Research Committee-approved application or an IND protocol accepted by FDA.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 27:1238 (August 2001), LR 30:

§735. Use of Radiopharmaceuticals for Therapy

A. - B.2. …

C. A licensee may use any unsealed radioactive material prepared for medical use and for which a written directive is required that is:

1. obtained from a manufacturer or preparer licensed under LAC 33:XV.328.J or equivalent agreement state requirements;

2. prepared by an authorized nuclear pharmacist, a physician who is an authorized user and who meets the requirements specified in LAC 33:XV.763.E, or an individual under the supervision of either as specified in LAC 33:XV.709;

3. obtained from and prepared by a Nuclear Regulatory Commission or agreement state licensee, for use in research in accordance with an IND protocol accepted by FDA; or

4. prepared by the licensee, for use in research in accordance with an IND protocol accepted by FDA.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§736. Safety Instruction

A. - B.1. …

2. visitor control, including:

a. routine visitation to hospitalized individuals in accordance with LAC 33:XV.421.A.1; and

b. visitation authorized in accordance with LAC 33:XV.421.C;

3. - 6. …

C. A licensee shall keep a record of individuals receiving instruction required by Subsection A of this Section, a description of the instruction, the date of instruction, and the name of the individual who gave the instruction. Such record shall be maintained for inspection by the department for two years.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 30:

§737. Safety Precautions

A. …

1. quarter the patient or human research subject either in:

a. a private room with a private sanitary facility; or

b. a room, with a private sanitary facility, with another individual who also has received therapy with unsealed radioactive material and who also cannot be released under LAC 33:XV.725;

A.2. - B. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 30:

§739. Use of Sealed Sources for Diagnosis

A. A licensee shall use only sealed sources for diagnostic medical uses as approved in the Sealed Source and Device Registry.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§741. Use of Sources for Brachytherapy

A. - A.5. …

B. A licensee shall use only radioactive sources for therapeutic medical uses:

1. as approved in the Sealed Source and Device Registry; or

2. in research in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA, provided the requirements of LAC 33:XV.713.A.1 are met.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§742. Safety Instructions

A. …

B. To satisfy the requirements of Subsection A of this Section, the instruction shall describe:

1. - 3. …

4. procedures for visitor control, including:

a. routine visitation of hospitalized individuals in accordance with LAC 33:XV.421.A.1; and

b. visitation authorized in accordance with LAC 33:XV.421.C;

5. - 6. …

C. A licensee shall maintain a record of individuals receiving instruction required by Subsection A of this Section, a description of the instruction, the date of instruction, and the name of the individual who gave the instruction for two years.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§743. Safety Precautions

A. - A.4. …

B. A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:

1. dislodged from the patient; or

2. lodged within the patient following removal of the source applicators.

C. A licensee shall notify the radiation safety officer or authorized user immediately if the patient or human research subject dies or has a medical emergency.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§744. Brachytherapy Records

A. Brachytherapy Sources Inventory

1. A licensee shall maintain accountability at all times for all brachytherapy sources in storage or use.

2. Promptly after removing them from a patient or a human research subject, the licensee shall return brachytherapy sources to an area of storage from the area of use, and immediately count or otherwise verify the number returned to ensure that all sources taken from the storage area have been returned.

3. A licensee shall make a record of brachytherapy source utilization that includes:

a. the names of the individuals permitted to handle the sources;

b. the number and activity of sources removed from storage, the room number of use and the patient's or human research subject's name, the time and date the sources were removed from storage, the number and activity of sources in storage after the removal, and the initials of the individual who removed the sources from storage; and

c. the number and activity of sources returned to storage, the room number of use and the patient's or human research subject's name, the time and date the sources were returned to storage, the number and activity of sources in storage after the return, and the initials of the individual who returned the sources to storage.

4. Immediately after implanting sources in a patient or human research subject and immediately after removal of sources from a patient or human research subject, the licensee shall make a radiation survey of the patient or human research subject and the area of use to confirm that no sources have been misplaced. The licensee shall make a record of each survey.

5. A licensee shall maintain the records required in Paragraphs A.3 and 4 of this Section for two years.

B. Records of Calibration Measurements of Brachytherapy Sources

1. A licensee shall maintain a record of the calibrations of brachytherapy sources required by LAC 33:XV.719 for three years after the last use of the source.

2. The record shall include:

a. the date of the calibration;

b. the manufacturer's name, model number, and serial number for the source and the instruments used to calibrate the source;

c. the source output or activity;

d. the source positioning accuracy within the applicators; and

e. the signature of the authorized medical physicist.

C. Records of Decay of Strontium-90 Sources for Ophthalmic Treatments

1. A licensee shall maintain a record of the activity of a strontium-90 source required by LAC 33:XV. 719 for the life of the source.

2. The record shall include:

a. the date and initial activity of the source as determined in accordance with LAC 33:XV.719; and

b. for each decay calculation, the date and the source activity as determined in accordance with LAC 33:XV.719.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§745. Surveys for Temporary Implants

A. Immediately after implanting sources in a patient or a human research subject, the licensee shall make a survey to locate and account for all sources that have not been implanted.

B. Immediately after removing the last temporary implant source from a patient or human research subject, the licensee shall perform a radiation survey of the patient or human research subject with a radiation detection survey instrument to confirm that all sources have been removed. The licensee shall not release from confinement for medical care a patient or human research subject treated by temporary implant until all sources have been removed.

C. Before releasing a patient or a human research subject treated with a remote afterloader unit from licensee control, a licensee shall survey the patient or the human research subject and the remote afterloader unit with a portable radiation detection survey instrument to confirm that the sources have been removed from the patient or human research subject and returned to the safe shielded position.

D. A licensee shall maintain a record of patient or human research subject surveys that demonstrates compliance with Subsections A, B, and C of this Section for two years. Each record shall include the date and results of the survey, the survey instrument used, and the name of the individual who made the survey.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§747. Use of Sealed Sources in Teletherapy Units, Remote Afterloader Units, and Gamma Stereotactic Radiosurgery Units

A. A licensee shall use sealed sources in teletherapy units, photon emitting remote afterloader units, or gamma stereotactic radiosurgery units for therapeutic medical uses:

1. as approved in the Sealed Source and Device Registry; or

2. in research in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA, provided the requirements of LAC 33:XV.713.A.1 are met.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§748. Maintenance and Repair Restrictions

A. …

B. Except for low dose-rate remote afterloader units, only a person specifically licensed by the department, the U.S. Nuclear Regulatory Commission, or an agreement state shall install, replace, relocate, or remove a sealed source or a source contained in a remote afterloader unit, a teletherapy unit, or a gamma stereotactic radiosurgery unit.

C. For a low dose-rate remote afterloader unit, only a person specifically licensed by the department, the U.S. Nuclear Regulatory Commission, or an agreement state or an authorized medical physicist shall install, replace, relocate, or remove a sealed source contained in the unit.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:

§750. Safety Procedures and Instructions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

A. For remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units, a licensee shall:

1. secure the unit, the console, the console keys, and the treatment room when not in use or unattended;

2. permit only individuals approved by the authorized user, radiation safety officer, or authorized medical physicist to be present in the treatment room during treatment with the source;

3. prevent dual operation of more than one radiation-producing device in a treatment room, if applicable; and

4. develop, implement, and maintain written procedures for responding to an abnormal situation when the operator is unable to place the source in the shielded position or remove the patient or human research subject from the radiation field with controls from outside the treatment room. These procedures shall include:

a. instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions;

b. the process for restricting access to and posting of the treatment area to minimize the risk of inadvertent exposure; and

c. the names and telephone numbers of the authorized users, the authorized medical physicist, and the radiation safety officer to be contacted if the unit or console operates abnormally.

B. A copy of the procedures required by Paragraph A.4 of this Section shall be physically located at the unit console.

C. A licensee shall conspicuously post written instructions at the unit console. These instructions shall inform the operator of:

1. the location of the procedures required by Paragraph A.4 of this Section; and

2. the names and telephone numbers of the authorized users, the authorized medical physicist, and radiation safety officer to be immediately contacted if the unit or console operates abnormally.

D. A licensee shall provide instruction, initially and at least annually, to all individuals who operate the unit, as appropriate to the individual's assigned duties, in:

1. the procedures identified in Paragraph A.4 of this Section; and

2. the operating procedures for the unit.

E. A licensee shall ensure that operators, authorized medical physicists, and authorized users participate in drills of the emergency procedures, initially and at least annually.

F. A licensee shall maintain a record of individuals receiving instruction required by Subsection D of this Section, a description of the instruction, the date of instruction, and the name of the individual who gave the instruction for two years.

G. A licensee shall retain a copy of the procedures required by Paragraph A.4 and D.2 of this Section until the licensee no longer possesses the remote afterloader, teletherapy unit, or gamma stereotactic radiosurgery unit.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§751. Safety Precautions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

A. A licensee shall control access to the treatment room by a door at each entrance.

B. A licensee shall equip each entrance to the treatment room with an electrical interlock system that will:

1. prevent the operator from initiating the treatment cycle unless each treatment room entrance door is closed;

2. cause the source to be shielded when an entrance door is opened; and

3. prevent the source from being exposed following an interlock interruption until all treatment room entrance doors are closed and the source "on-off" control is reset at the console.

C. A licensee shall require any individual entering the treatment room to ensure, through the use of appropriate radiation monitors, that radiation levels have returned to ambient levels.

D. Except for low-dose remote afterloader units, a licensee shall construct or equip each treatment room with viewing and intercom systems to permit continuous observation of the patient or the human research subject from the treatment console during irradiation.

E. For licensed activities where sources are placed within the patient's or human research subject's body, a licensee shall only conduct treatments that allow for expeditious removal of a decoupled or jammed source.

F. In addition to the requirements specified in Subsections A through E of this Section, a licensee shall:

1. for medium dose-rate and pulsed dose-rate remote afterloader units, require:

a. an authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit, to be physically present during the initiation of all patient treatments involving the unit; and

b. an authorized medical physicist and either an authorized user or an individual, under the supervision of an authorized user, who has been trained to remove the source applicator in the event of an emergency involving the unit, to be immediately available during continuation of all patient treatments involving the unit;

2. for high dose-rate remote afterloader units, require:

a. an authorized medical physicist and an authorized user to be physically present during the initiation of all patient treatments involving the unit; and

b. an authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit, to be physically present during continuation of all patient treatments involving the unit;

3. for gamma stereotactic radiosurgery units, require an authorized medical physicist and an authorized user to be physically present throughout all patient treatments involving the unit;

4. notify the radiation safety officer, or his/her designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.

G. A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:

1. remaining in the unshielded position; or

2. lodged within the patient following completion of the treatment.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§755. Dosimetry Equipment and Therapy-Related Computer Systems

A. - A.2. …

B. The licensee shall have available for use a dosimetry system for spot-check measurements. To meet this requirement, the system may be compared with a system that has been calibrated in accordance with Subsection A of this Section. This comparison shall have been performed within the previous year and after each servicing that may have affected system calibration. The spot-check system may be the same system used to meet the requirement in Subsection A of this Section.

C. The licensee shall maintain a record of each calibration, intercomparison, and comparison for the duration of the license. For each calibration, intercomparison, or comparison, the record shall include:

1. the date;

2. the model numbers and serial numbers of the instruments that were calibrated, intercompared, or compared, as required by Subsections A and B of this Section;

3. the correction factors that were determined;

4. the names of the individuals who performed the calibration, intercomparison, or comparison; and

5. evidence that the intercomparison meeting was sanctioned by a calibration laboratory or radiologic physics center accredited by the American Association of Physicists in Medicine.

D. The licensee shall perform acceptance testing on the treatment planning system of a therapy-related computer system in accordance with published protocols accepted by nationally-recognized bodies. At a minimum, the acceptance testing shall include, as applicable, verification of:

1. the source-specific input parameters required by the dose calculation algorithm;

2. the accuracy of dose, dwell time, and treatment time calculations at representative points;

3. the accuracy of isodose plots and graphic displays;

4. the accuracy of the software used to determine sealed source positions from radiographic images; and

5. the accuracy of electronic transfer of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§756. Full Calibration Measurements on Teletherapy Units, Remote Afterloader Units, and Gamma Stereotactic Radiosurgery Units

A. Full Calibration Measurements on Teletherapy Units

1. A licensee authorized to use a teletherapy unit for medical use shall perform full calibration measurements on each teletherapy unit:

a. before the first medical use of the unit;

b. before medical use under the following conditions:

i. whenever spot-check measurements indicate that the output differs by more than 5 percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;

ii. following replacement of the source or following reinstallation of the teletherapy unit in a new location; and

iii. following any repair of the teletherapy unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and

c. at intervals not exceeding one year.

2. To satisfy the requirement of Paragraph A.1 of this Section, full calibration measurements shall include determination of:

a. the output within 3 percent for the range of field sizes and for the distance or range of distances used for medical use;

b. the coincidence of the radiation field and the field indicated by the light beam localizing device;

c. the uniformity of the radiation field and its dependence on the orientation of the useful beam;

d. timer accuracy, constancy, and linearity;

e. "on-off" error; and

f. the accuracy of all distance measuring and localization devices in medical use.

3. A licensee shall use the dosimetry system described in LAC 33:XV.755 to measure the output for one set of exposure conditions. The remaining radiation measurements required in Subparagraph A.2.a of this Section may then be made using a dosimetry system that indicates relative dose rates.

4. A licensee shall make full calibration measurements required by Paragraph A.1 of this Section in accordance with the procedures recommended by Task Group 21 of the Radiation Therapy Committee of the American Association of Physicists in Medicine that are described in *Medical Physics*, vol. 10, number 6, 1983, pp. 741-771, and vol. 11, number 2, 1984, p. 213.

5. A licensee shall correct mathematically the outputs determined in Subparagraph A.2.a of this Section for physical decay for intervals not exceeding one month for cobalt-60 and intervals not exceeding six months for cesium-137.

6. Full calibration measurements required by Paragraph A.1 of this Section and physical decay corrections required by Paragraph A.5 of this Section shall be performed by a teletherapy physicist named on the licensee's license or authorized by a license issued by the U.S. Nuclear Regulatory Commission or an agreement state to perform such services.

7. A licensee shall retain a record of each calibration in accordance with Subsection D of this Section.

B. Full Calibration Measurements on Remote Afterloader Units

1. A licensee authorized to use a remote afterloader unit for medical use shall perform full calibration measurements on each unit:

a. before the first medical use of the unit;

b. before medical use under the following conditions:

i. following replacement of the source or following reinstallation of the unit in a new location outside the facility; and

ii. following any repair of the unit that includes removal of the source or major repair of the components associated with the source exposure assembly;

c. at intervals not exceeding one quarter for high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader units with sources whose half-life exceeds 75 days; and

d. at intervals not exceeding one year for low dose-rate remote afterloader units.

2. To satisfy the requirement of Paragraph B.1 of this Section, full calibration measurements shall include, as applicable, determination of:

a. the output within 5 percent;

b. source positioning accuracy to within 1 millimeter;

c. source retraction with backup battery upon power failure;

d. length of the source transfer tubes;

e. timer accuracy and linearity over the typical range of use;

f. length of the applicators; and

g. function of the source transfer tubes, applicators, and transfer tube-applicator interfaces.

3. A licensee shall use the dosimetry system described in LAC 33:XV.755.A to measure the output.

4. A licensee shall make the full calibration measurements required by Subsection A of this Section in accordance with published protocols accepted by nationally-recognized bodies.

5. In addition to the requirements for full calibrations for low dose-rate remote afterloader units in Paragraph B.2 of this Section, a licensee shall perform an autoradiograph of the sources to verify inventory and source arrangement at intervals not exceeding one quarter.

6. For low dose-rate remote afterloader units, a licensee may use measurements provided by the source manufacturer that are made in accordance with Paragraphs B.1-5 of this Section.

7. A licensee shall mathematically correct the output determined in Subparagraph B.2.a of this Section for physical decay at intervals consistent with 1 percent physical decay.

8. Full calibration measurements required by Paragraph B.1 of this Section and physical decay corrections required by Paragraph B.7 of this Section shall be performed by the authorized medical physicist.

9. A licensee shall retain a record of each calibration in accordance with Subsection D of this Section.

C. Full Calibration Measurements on Gamma Stereotactic Radiosurgery Units

1. A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform full calibration measurements on each unit:

a. before the first medical use of the unit;

b. before medical use under the following conditions:

i. whenever spot-check measurements indicate that the output differs by more than 5 percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;

ii. following replacement of the sources or following reinstallation of the gamma stereotactic radiosurgery unit in a new location; and

iii. following any repair of the gamma stereotactic radiosurgery unit that includes removal of the sources or major repair of the components associated with the source assembly; and

c. at intervals not exceeding one year, with the exception that relative helmet factors need only be determined before the first medical use of a helmet and following any damage to a helmet.

2. To satisfy the requirement of Paragraph C.1 of this Section, full calibration measurements shall include determination of:

a. the output within 3 percent;

b. relative helmet factors;

c. isocenter coincidence;

d. timer accuracy and linearity over the range of use;

e. “on-off” error;

f. trunnion centricity;

g. proper functioning of treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;

h. proper functioning of helmet microswitches;

i. proper functioning of emergency timing circuits; and

j. proper functioning of stereotactic frames and localizing devices (trunnions).

3. A licensee shall use the dosimetry system described in LAC 33:XV.755.A to measure the output for one set of exposure conditions. The remaining radiation measurements required in Subparagraph C.2.a of this Section may be made using a dosimetry system that indicates relative dose rates.

4. A licensee shall make the full calibration measurements required by Paragraph C.1 of this Section in accordance with published protocols accepted by nationally-recognized bodies.

5. A licensee shall mathematically correct the outputs determined in Subparagraph C.2.a of this Section at intervals not exceeding one month for cobalt-60 and at intervals consistent with 1 percent physical decay for all other radionuclides.

6. Full calibration measurements required by Paragraph C.1 of this Section and physical decay corrections required by Paragraph C.5 of this Section shall be performed by the authorized medical physicist.

7. A licensee shall retain a record of each calibration in accordance with Subsection D of this Section.

D. Records of Teletherapy Unit, Remote Afterloader Unit, and Gamma Stereotactic Radiosurgery Unit Full Calibrations

1. A licensee shall maintain a record of the teletherapy unit, remote afterloader unit, and gamma stereotactic radiosurgery unit full calibrations required by Subsections A, B, and C of this Section for three years. The record shall include:

a. the date of the calibration;

b. the manufacturer's name, model number, and serial number of the teletherapy, remote afterloader, or gamma stereotactic radiosurgery unit, the source, and the instruments used to calibrate the unit;

c. the results and an assessment of the full calibrations;

d. the results of the autoradiograph required for low dose-rate remote afterloader units; and

e. the signature of the authorized medical physicist who performed the full calibration.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air

Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§757. Periodic Spot-Checks

A. Periodic Spot-Checks for Teletherapy Units

1. A licensee authorized to use teletherapy units for medical use shall perform output spot-checks on each teletherapy unit at intervals not to exceed one month.

2. To satisfy the requirement of Paragraph A.1 of this Section, spot-checks shall include determination of:

a. timer constancy and timer linearity over the range of use;

b. "on-off" error;

c. the coincidence of the radiation field and the field indicated by the light-beam localizing device;

d. the accuracy of all distance-measuring and localization devices used for medical use;

e. the output for one typical set of operating conditions; and

f. the difference between the measurement made in Subparagraph A.2.e of this Section and the anticipated output, expressed as a percentage of the anticipated output (i.e., the value obtained at last full calibration corrected mathematically for physical decay).

3. A licensee shall use the dosimetry system described in LAC 33:XV.755 to make the spot-check required in Subparagraph A.2.e of this Section.

4. A licensee shall perform spot-checks required by Paragraph A.1 of this Section in accordance with procedures established by the teletherapy physicist. The teletherapy physicist does not need to actually perform the output spot-check measurements.

5. A licensee shall have the teletherapy physicist review the results of each output spot-check within 15 days. The teletherapy physicist shall promptly notify the licensee in writing of the results of each output spot-check. The licensee shall keep a copy of each written notification for two years.

6. A licensee authorized to use a teletherapy unit for medical use shall perform safety spot-checks of each teletherapy facility at intervals not to exceed one month.

7. To satisfy the requirement of Paragraph A.6 of this Section, safety spot-checks shall ensure proper operation of:

a. electrical interlocks at each teletherapy room entrance;

b. electrical or mechanical stops installed for the purpose of limiting use of the primary beam of radiation, restricting source housing angulation or elevation and carriage or stand travel, and operating the beam "on-off" mechanism;

c. beam condition indicator lights on the teletherapy unit, on the control console, and in the facility;

d. viewing systems;

e. treatment room doors from inside and outside the treatment room; and

f. electrically-assisted treatment room doors with the teletherapy unit electrical power turned "off."

8. A licensee shall lock the control console in the "off" position if any door interlock malfunctions. No licensee shall use the unit until the interlock system is repaired unless specifically authorized to do so in writing by the department.

9. A licensee shall promptly repair any system identified in Paragraph A.7 of this Section that is not operating properly. The teletherapy unit shall not be used until all repairs are completed.

10. A licensee shall maintain a record of each spot-check required by Paragraphs A.1 and 6 of this Section for two years. The record shall include the date of the spot-check; the manufacturer's name, model number, and serial number for both the teletherapy unit and source; the manufacturer's name, model number, and serial number of the instrument used to measure the output of the teletherapy unit; the timer constancy and linearity; the calculated "on-off" error; a determination of the coincidence of the radiation field and the field indicated by the light beam localizing device; the timer constancy and linearity for a typical treatment time; the calculated "on-off" error; the estimated accuracy of each distance-measuring or localization device; the difference between the anticipated output and the measured output; notations indicating the operability of each entrance door electrical interlock, each electrical or mechanical stop, each beam condition indicator light, the viewing system, and doors; and the signature of the individual who performed the periodic spot-check.

B. Periodic Spot-Checks for Remote Afterloader Units

1. A licensee authorized to use a remote afterloader unit for medical use shall perform spot-checks of each remote afterloader facility and on each unit:

a. before the first use of a high dose-rate, medium dose-rate, or pulsed dose-rate remote afterloader unit on a given day;

b. before each patient treatment with a low dose-rate remote afterloader unit; and

c. after each source installation.

2. A licensee shall perform the measurements required by Paragraph B.1 of this Section in accordance with written procedures established by the authorized medical physicist. The authorized medical physicist need not actually perform the spot-check measurements.

3. A licensee shall have the authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.

4. To satisfy the requirements of Paragraph B.1 of this Section, spot-checks shall, at a minimum, ensure proper operation of:

a. electrical interlocks at each remote afterloader unit room entrance;

b. source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;

c. viewing and intercom systems in each high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader facility;

d. emergency response equipment;

e. radiation monitors used to indicate the source position;

f. timer accuracy;

g clock (date and time) in the unit's computer; and

h. decayed source activity in the unit's computer.

5. If the results of the checks required in Paragraph B.4 of this Section indicate the malfunction of any system, a licensee shall lock the control console in the "off" position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

6. A licensee shall retain a record of each check required by Paragraph B.4 of this Section and a copy of the procedures required by Paragraph B.2 of this Section for three years. The records shall include:

a. the date of the spot-check;

b. the manufacturer's name, model number, and serial number for the remote afterloader unit and source;

c. an assessment of timer accuracy;

d. notations indicating the operability of entrance door electrical interlocks, radiation monitors, source exposure indicator lights, viewing and intercom systems, and clock and decayed source activity in the unit's computer; and

e. the name of the individual who performed the periodic spot-check and the signature of the authorized medical physicist who reviewed the record of the spot-check.

7. A licensee shall retain a copy of the procedures required by Paragraph B.6 of this Section until the licensee no longer possesses the remote afterloader unit.

C. Periodic Spot-Checks for Gamma Stereotactic Radiosurgery Units

1. A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform spot-checks of each gamma stereotactic radiosurgery facility and on each unit:

a. monthly;

b. before the first use of the unit on a given day; and

c. after each source installation.

2. A licensee shall:

a. perform the measurements required by Paragraph C.1 of this Section in accordance with written procedures established by the authorized medical physicist; and

b. have the authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.

3. To satisfy the requirements of Subparagraph C.1.a of this Section, spot-checks shall, at a minimum:

a. ensure proper operation of:

i. treatment table retraction mechanisms, using backup battery power or hydraulic backups with the unit off;

ii. helmet microswitches;

iii. emergency timing circuits; and

iv. stereotactic frames and localizing devices (trunnions);

b. determine:

i. the output for one typical set of operating conditions measured with the dosimetry system described in LAC 33:XV.755.B;

ii. the difference between the measurement made in accordance with Clause C.3.b.i of this Section and the anticipated output, expressed as a percentage of the anticipated output (i.e., the value obtained at last full calibration corrected mathematically for physical decay);

iii. the degree of agreement between source output and computer calculation;

iv. timer accuracy and linearity over the range of use;

v. "on-off" error; and

vi. trunnion centricity.

4. To satisfy the requirements of Subparagraphs C.1.b and c of this Section, spot-checks shall ensure proper operation of:

a. electrical interlocks at each gamma stereotactic radiosurgery room entrance;

b. source exposure indicator lights on the gamma stereotactic radiosurgery unit, on the control console, and in the facility;

c. viewing and intercom systems;

d. timer termination;

e. radiation monitors used to indicate room exposures; and

f. emergency "off" buttons.

5. A licensee shall arrange for the repair of any system identified in Paragraph C.3 of this Section that is not operating properly as soon as possible.

6. If the results of the checks required in Paragraph C.4 of this Section indicate the malfunction of any system, a licensee shall lock the control console in the “off” position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

7. A licensee shall retain a record of each check required by Paragraphs C.3 and 4 of this Section for three years. The record shall include:

a. the date of the spot-check;

b. the manufacturer's name, model number, and serial number for the gamma stereotactic radiosurgery unit and the instrument used to measure the output of the unit;

c. an assessment of timer linearity and accuracy;

d. the calculated "on-off" error;

e. a determination of trunnion centricity;

f. the difference between the anticipated output and the measured output;

g. an assessment of source output against computer calculations;

h. notations indicating the operability of radiation monitors, helmet microswitches, emergency timing circuits, emergency "off" buttons, electrical interlocks, source exposure indicator lights, viewing and intercom systems, timer termination, treatment table retraction mechanism, and stereotactic frames and localizing devices (trunnions); and

i. the name of the individual who performed the periodic spot-check and the signature of the authorized medical physicist who reviewed the record of the spot-check.

8. A licensee shall retain a copy of the procedures required by Paragraph C.2 of this Section until the licensee no longer possesses the gamma stereotactic radiosurgery unit.

D. Additional Technical Requirements for Mobile Remote Afterloader Units

1. A licensee providing mobile remote afterloader service shall:

a. check survey instruments before medical use at each address of use or on each day of use, whichever is more frequent; and

b. account for all sources before departure from a client's address of use.

2. In addition to the periodic spot-checks required by Subsection B of this Section, a licensee authorized to use

mobile remote afterloaders for medical use shall perform checks on each remote afterloader unit before use at each address of use. At a minimum, checks shall be made to verify the operation of:

a. electrical interlocks on treatment area access points;

b. source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;

c. viewing and intercom systems;

d. applicators, source transfer tubes, and transfer tube-applicator interfaces;

e. radiation monitors used to indicate room exposures;

f. source positioning (accuracy); and

g. radiation monitors used to indicate whether the source has returned to a safe shielded position.

3. In addition to the requirements of periodic spot-checks in Paragraph D.2 of this Section, a licensee shall ensure overall proper operation of the remote afterloader unit by conducting a simulated cycle of treatment before use at each address of use.

4. If the results of the checks required in Paragraph D.2 of this Section indicate the malfunction of any system, a licensee shall lock the control console in the "off" position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

5. A licensee shall retain a record of each check required by Paragraph D.2 of this Section for three years. The record shall include:

a. the date of the check;

b. the manufacturer's name, model number, and serial number of the remote afterloader unit;

c. notations accounting for all sources before the licensee departs from a facility;

d. notations indicating the operability of entrance door electrical interlocks, radiation monitors, source exposure indicator lights, viewing and intercom system, applicators, source transfer tubes, and transfer tube applicator interfaces, and source positioning accuracy; and

e. the signature of the individual who performed the check.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:

§758. Radiation Surveys

A. A person licensed under this Chapter shall make surveys to ensure that the maximum radiation levels and average radiation levels from the surface of the main source safe with the source in the shielded position do not exceed the levels stated in the Sealed Source and Device Registry.

B. The licensee shall make the survey required by Subsection A of this Section at installation of a new source and following repairs to the source shielding, the source driving unit, or other electronic or mechanical component that could expose the source, reduce the shielding around the source, or compromise the radiation safety of the unit or the source.

C. A licensee shall maintain a record of radiation surveys of treatment units made in accordance with Subsections A and B of this Section for the duration of use of the unit. The record shall include:

1. the date of the measurements;

2. the manufacturer's name, model number, and serial number of the treatment unit, the source, and the instrument used to measure radiation levels;

3. each dose rate measured around the source while the unit is in the "off" position and the average of all measurements; and

4. the signature of the individual who performed the test.

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HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:

§759. Safety Spot-Checks for Teletherapy Facilities

A. A licensee shall promptly check all systems listed in LAC 33:XV.757.A.7 for proper function after each installation of a teletherapy source and after making any change for which an amendment is required by LAC 33:XV.749.

B. If the results of the safety spot-checks required in Subsection A of this Section indicate the malfunction of any system specified in LAC 33:XV.757, the licensee shall lock the control console in the "off" position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

C. …

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

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§762. Five-Year Inspection

A. A licensee shall have each teletherapy unit and gamma stereotactic radiosurgery unit fully inspected and serviced during source replacement or at intervals not to exceed five years, whichever comes first, to ensure proper functioning of the source exposure mechanism.

B. - C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:

§763. Training

A. - D.2.b.iii. …

iv. using administrative controls to prevent a medical event involving the use of unsealed radioactive material;

D.2.b.v. - I.2.b.ii. …

iii. using administrative controls to prevent a medical event involving the use of radioactive material;

I.2.b.iv. - O. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:

§777. Written Directives

A. A written directive shall be dated and signed by an authorized user before the administration of I-131 sodium iodide greater than 1.11 megabecquerels (MBq) (30 microcuries (?Ci)), any therapeutic dosage of radioactive material, or any therapeutic dose of radiation from radioactive material. If, because of the emergent nature of the patient's condition, a delay in order to provide a written directive would jeopardize the patient's health, an oral directive is acceptable. The information contained in the oral directive shall be documented as soon as possible in writing in the patient's record. A written directive shall be prepared within 48 hours of the oral directive.

B. The written directive shall contain the patient's or human research subject's name and the following information:

1. for any administration of quantities greater than 1.11 MBq (30 ?Ci) of sodium iodide I-131, the dosage;

2. for an administration of a therapeutic dosage of unsealed radioactive material other than sodium iodide I-131:

a. the radioactive drug;

b. the dosage; and

c. the route of administration;

3. for gamma stereotactic radiosurgery:

a. the total dose;

b. the treatment site; and

c. the values for the target coordinate settings per treatment for each anatomically distinct treatment site;

4. for teletherapy:

a. the total dose;

b. the dose per fraction;

c. the number of fractions; and

d. the treatment site;

5. for high dose-rate remote afterloading brachytherapy:

a. the radionuclide;

b. the treatment site;

c. the dose per fraction;

d. the number of fractions; and

e. the total dose; or

6. for all other brachytherapy, including low, medium, and pulsed dose-rate remote afterloaders:

a. before implantation:

i. the treatment site;

ii. the radionuclide; and

iii. the dose; and

b. after implantation but before completion of the procedure:

i. the radionuclide;

ii. the treatment site;

iii. the number of sources; and

iv. the total source strength and exposure time (or the total dose).

C. For any administration requiring a written directive, the licensee shall develop, implement, and maintain written procedures to provide high confidence that:

1. the patient's or human research subject's identity is verified before each administration; and

2. each administration is in accordance with the written directive.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 21:554 (June 1995), amended LR 24:2110 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2591 (November 2000), LR 30:

A public hearing will be held on May 25, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP034*. Such comments must be received no later than May 25, 2004, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Environmental Planning Division, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP034*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at http://www.deq.louisiana.gov/planning/regs/index.htm.

James H. Brent, Ph.D.
Assistant Secretary

0404#052

NOTICE OF INTENT

Firefighters' Pension and Relief Fund for the City of New Orleans

Partial Lump-Sum Option Payment
(LAC 58:V.1901 and 1903)

The Board of Trustees of the Firefighters? Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), propose to amend LAC 58:V.1901 and 1903 in accordance with the Administrative Procedure Act. The proposed amendments will allow members to elect the partial lump-sum option payment even if they have participated in the deferred retirement option plan (DROP), and to rollover their PLOP distribution to another qualified plan.

Title 58
RETIREMENT
Part V. Firefighters' Pension and Relief Fund for the City of New Orleans
Chapter 19. Partial Lump-Sum Option Payment
§1901. General Rules for Participation

A. Upon application for retirement, a participant may elect to receive the actuarial equivalent of his retirement benefit as a reduced monthly benefit, payable for life, plus an initial lump-sum benefit. The amount of the initial lump-sum benefit, as determined by the member, shall not exceed an amount equal to the member's normal monthly retirement benefit times 60.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.2.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters? Pension and Relief Fund for the City of New Orleans and Vicinity, LR 26:291 (February 2000), repromulgated LR 26:1610 (August 2000), amended LR 30:

§1903. Distributions from Partial Lump-Sum Option Payment

A. Distributions from the partial lump-sum option payment (PLOP) elected by the member are eligible for rollover as is the case with DROP accounts. Similarly, any amount of the partial lump-sum option payment left with the fund shall be subject to the rules applicable to distribution of DROP accounts.

1. As detailed in those rules applicable to DROP accounts, allowable distributions vary depending upon whether the member retires before, during or after the calendar year in which the member reaches age 55.

B. A member who retires before the calendar year in which the member reaches age 55 may receive distribution of his PLOP at retirement and avoid incurrence of the 10 percent early distribution penalty. In the event any PLOP remains on deposit with the fund, all distribution rules applicable to DROP accounts apply, including the 10 percent early distribution penalty or recapture penalty, if applicable.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.2.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters? Pension and Relief Fund for the City of New Orleans and Vicinity, LR 26:291 (February 2000), repromulgated LR 26:1610 (August 2000), amended LR 30:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Family Impact Statement

1. Estimated Effect on the Stability of the Family. There is no estimated effect on the stability of the family.

2. Estimated Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. There is no estimated effect on the authority and rights of parents regarding the education and supervision of their children.

3. Estimated Effect on the Functioning of the Family. There is no estimated effect on the functioning of the family.

4. Estimated Effect on Family Earnings and Family Budget. It is estimated that this Rule will beneficially affect the family earnings of covered participants in that it will encourage longer service with the New Orleans Fire Department.

5. Estimated Effect on the Behavior and Personal Responsibility of Children. There is no estimated effect on the behavior and personal responsibility of children.

6. Estimated Effect on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. There is no estimated effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Any interested person may submit written comments regarding the content of this proposed Rule to Richard J. Hampton, Jr., Secretary-Treasurer of the Board of Trustees, 329 Dorgenois Street, New Orleans, LA, before 5 p.m., May 20, 2004.

Richard Hampton
Secretary-Treasurer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Partial Lump-Sum Option Payment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs or savings to State or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated 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 are no estimated costs to non-governmental groups. Directly affected persons receive an economic benefit by electing to rollover their retirement benefit to another tax qualified retirement plan.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Richard Hampton	H. Gordon Monk
Secretary-Treasurer	Staff Director
0404#012	Legislative Fiscal Office

NOTICE OF INTENT

Firefighters' Pension and Relief Fund for the City of New Orleans

Qualified Domestic Relations Orders
(LAC 58:V.101, 103, and 105)

The Board of Trustees of the Firefighters? Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), proposes to amend LAC 58:V.101, 103 and 105. The amended rules eliminate references to the Internal Revenue Code, but retain the references to R.S. 11:291 with respect to the provisions of domestic relations orders. This Rule will limit an alternate payee's ability to begin receiving a pension from the fund prior to the date a participant terminates his employment and begins receiving pension benefits. The Rule will also disallow the payment of any surviving spouse benefits to any person other than the spouse to whom the participant is married on the date of his death.

Title 58
RETIREMENT
Part V. Firefighters' Pension and Relief Fund for the City of New Orleans
Chapter 1. Qualified Domestic Relations Orders

§101. Determining Qualified Status of Domestic Relations Orders

A. Intent and Construction. These procedural rules are adopted in order to satisfy the requirements of R.S. 11:291, and shall be construed consistently with this purpose.

B. The purpose of these rules is to establish the trustees' willingness to recognize and enforce any QDRO that meets the requirements set forth herein.

C. It is further intended that the provisions of R.S. 11:291 and 292 be strictly observed. Therefore, the trustees shall not honor the terms of any QDRO:

1. ...

2. that requires the fund to provide increased benefits (determined on the basis of actuarial value);

3. that requires the payment of benefits to an alternate payee that are required to be paid to another alternate payee under another order previously determined to be a QDRO;

4. that requires the payment of benefits to an alternate payee prior to the date the participant terminates employment and his retirement benefits commence; or

5. that allow the alternate payee to elect a form of benefit payable in any manner other than over the life of the participant when the order is presented to the Fund after the participant has already begun receiving pension benefits.

D. The trustees will not honor the provision of any QDRO that the participant's former spouse shall be treated as the participant's surviving spouse for purposes of the right to receive all or part of any survivor benefits payable, or that any other spouse of the participant shall not be treated as a spouse of the participant for these purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:501 (June 1990), amended by the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 23:1304 (October 1997), LR 30:

§103. Definitions

A. ...

* * *

Earliest Retirement Date? Repealed.

* * *

Qualified Domestic Relations Order?

a. - i. ...

ii. the amount or percentage of the participant's benefits to be paid by the Fund to each alternate payee, or the manner in which such amount or percentage is to be determined;

a.iii. - b.i. ...

ii. the fund to provide increased benefits (determined on the basis of actuarial value);

iii. ...

iv. the payment of benefits to an alternate payee prior to the date the participant terminates employment and begins receiving pension benefits from the fund; or

v. the payment of benefits to an alternate payee in any manner other than over the life of the participant when the order is presented to the fund after the participant has already begun receiving pension benefits.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:501 (June 1990), amended by the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 23:1304 (October 1997), LR 30:

§105. QDRO Language

A. ...

B. For further guidance concerning those matters that should be considered when drafting a QDRO (e.g., types of benefits, approaches to dividing retirement benefits, form and commencement of payment to alternate payees, and tax treatment of benefits payments made pursuant to a QDRO) the parties are encouraged to consult Notice 97-11 issued by the Internal Revenue Service and appearing in *Internal Revenue Bulletin* 199702 dated January 13, 1997. Additional guidance may be found in the Pension Benefit Guaranty Corporation's booklet entitled *Divorce Orders and PBGC*, which discusses the special QDRO rules that apply for plans that have been terminated and are trusteed by PBGC, and provides model QDROs for use with those plans. The publication may be obtained by calling PBGC's Customer Service Center at 1-800-400-PBGC or electronically via the PBGC Internet site at "http://www.pbgc.gov." However, some or all of the principals there set forth may not apply to this fund by reason of its status as a statutory governmental plan and/or the types of benefits payable under R.S. 11:3361 et seq. Thus the rules and regulations shall supersede the provisions of the IRS Bulletin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:501 (June 1990), amended by the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 23:1305 (October 1997), LR 30:

All currently stated rules of the board, unless amended herein, shall remain in full force and effect.

Family Impact Statement

1. Estimated Effect on the Stability of the Family. There is no estimated effect on the stability of the family.

2. Estimated Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. There is no estimated effect on the authority and rights of parents regarding the education and supervision of their children.

3. Estimated Effect on the Functioning of the Family. There is no estimated effect on the functioning of the family.

4. Estimated Effect on Family Earnings and Family Budget. It is estimated that this Rule will have no impact on the family earnings of covered participants or retirees. The former spouses of active and retired participants' receipt of pension benefits will not be withdrawn prior to the date the participant actually retires.

5. Estimated Effect on the Behavior and Personal Responsibility of Children. There is no estimated effect on the behavior and personal responsibility of children.

6. Estimated Effect on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. There is no estimated effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Any interested person may submit written comments regarding the content of this proposed Rule to Richard J. Hampton, Jr., Secretary-Treasurer of the Board of Trustees, 329 Dorgenois Street, New Orleans, LA, before 5 p.m., May 20, 2004.

Richard Hampton
Secretary-Treasurer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Qualified Domestic Relations Orders

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule change will have no impact on State or local governmental costs. The rule change will not affect the nominal costs associated with the Trustees' review and determination of qualified domestic relations orders.

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 posed by adoption of the proposed rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affected persons by adoption of the proposed rules

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment by the proposed rules' adoption.

Richard Hampton
Secretary-Treasurer
0404#013

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Board of Architectural Examiners

Informal Procedures for Violations (LAC 46:I.1903)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners ("Board") gives notice that rule making procedures have been initiated for the amendment of LAC 46.I:1903 pertaining to the procedures which it will use to receive, investigate, process, and dispose of possible violations of the architects' licensing law (R.S. 37:141 et seq.) and its rules, including the implementation of an informal procedure for resolving possible violations without a full board hearing. The existing Rule does not contain an informal procedure for resolving possible violations. The proposed amendments have no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part I. Architects
Chapter 19. Rules of Conduct: Violations
§1903. Violations

A.1. When the board receives a complaint, report, or other information which, if established as being true, would constitute just cause under the law for revocation, suspension, denial of license, or other form of discipline or punishment specified in R.S. 37:153 or R.S. 37:154, the board may:

a. conduct its own investigation or inquiry;

b. refer the matter to an investigator for an investigation;

c. refer the matter to its Complaint Review Committee ("CRC"); and/or

d. file its own complaint against the architect or the other person (hereinafter in this Section the "respondent") who may have violated the law or rules.

2. In accordance with R.S. 37:153.F, a complaint (whether made by the board or other person) shall be in the form of a sworn affidavit. If a complaint, report, or other such information is received by the executive director, the director will, within her discretion, forward same to either the board (for action consistent with this Section) or to the CRC.

B. The CRC is a committee of the board appointed by the president consisting of at least two board members. The CRC may review complaints and other information concerning possible violations of law or rules, make or have made whatever investigation it deems appropriate concerning such possible violations, file complaints, decide whether an attempt should be made to resolve alleged violations informally (without a full board hearing), discuss or confer with a respondent concerning the alleged violations and/or a possible resolution thereof, make recommendations to the full board concerning a possible resolution of the alleged violations (if the respondent

consents to such recommendations), present and explain any recommendations made to the full board, and generally perform whatever other actions it deems necessary or appropriate in the receipt, investigation, handling, and/or disposition of complaints or information concerning possible violations of the law or rules.

C. The board, investigator, and/or CRC shall conduct such investigation or make whatever other inquiry deemed appropriate to determine whether the matter should be dismissed or pursued further. To assist in the investigation, the board may issue, as necessary, such subpoenas as may be required to obtain documents and compel the appearance of witnesses.

D. The executive director may, but shall not be required, to provide written notice to the respondent that an investigation has been initiated. In determining whether to provide notice to the respondent, the director shall consider whether such notice may prejudice the investigation. Any notice shall describe the nature or basis of the complaint or the other information giving rise to the investigation, contain a preliminary statement of the possible violations of law or rules that may be involved, and provide the respondent with an opportunity to respond in writing and provide information relating to the investigation.

E. The executive director will provide a copy of the complaint to the respondent. The executive director will normally provide the complaint immediately, unless in the judgment of the executive director, the board or the CRC doing so may prejudice the investigation. In determining whether providing a complaint to the respondent immediately may prejudice the investigation, the executive director may consult with the president and/or the CRC. The respondent shall be allowed a reasonable opportunity to respond in writing to the complaint and provide whatever information that the respondent would like the board to consider.

F. The board may at any time dispose of any complaint or other matter informally. Such informal resolution may take the form of any informal disposition recognized in R.S. 49:955(D) or any other form of agreement or disposition which adequately addresses the complaint or the matter under investigation.

G. For the purpose of resolving a complaint or other matter without a full board hearing, the board, CRC, or the respondent may suggest that an informal conference be held. If the board or the CRC suggests such a conference, attendance by the respondent at this conference shall be purely voluntary, and no inferences or negative presumptions shall result if a respondent declines to attend or otherwise participate in such a conference.

H. The persons who will normally attend an informal conference are one or both of the board members comprising the CRC, the executive director, the board attorney, and the respondent. The CRC may request that other persons, such as the investigator, also attend, if such attendance would facilitate the discussion and potentially resolve the complaint or other matter at issue. The respondent may bring his or her attorney to the conference, although such legal representation is not necessary.

I. At the start of an informal conference, the CRC, executive director, or board attorney will explain the purpose of the informal conference; discuss the specific charges that may be presented to the board if it becomes necessary to schedule a formal hearing; and present some or all of the evidence that the board might introduce at a formal hearing to substantiate the charges. The respondent will be provided an opportunity to discuss the board's evidence, present his or her own evidence, and show that no violation of the law or rules has occurred. Statements made at the informal conference may not be introduced at a formal hearing unless all parties consent. No transcript of the informal conference will be made.

J. The respondent has the right to terminate an informal conference at any time and to request a formal hearing called for the purpose of adjudicating any alleged violation of the law or rules.

K. If at the end of the informal conference it appears that no violation of the law or the rules has occurred, no further action will be taken, and the CRC will recommend to the board that the complaint be dismissed or, if no complaint has been filed, that no further action be taken concerning the matter being considered.

L. If at the end of the informal conference it appears that a violation may propose of the law or the rules has occurred, the CRC a stipulation, settlement agreement, or consent order to the respondent. If the proposal for resolving the matter is agreeable to the respondent, the CRC will then submit the proposed stipulation, settlement agreement, or consent order to the board and recommend that the board accept its recommendation.

M. If the respondent does not consent to the proposal made by the CRC for resolving the matter at the end of the informal conference, the CRC will advise the board that an informal conference was unsuccessful in resolving the matter and that the complaint, if one has been filed, may be scheduled for a formal hearing. If no complaint has been filed, the CRC will advise the respondent of whatever action it intends to take concerning the matter being considered. The CRC may file its own complaint against the respondent and, if so, that complaint may be scheduled for a formal hearing before the full board.

N. The CRC will present and explain its recommendations for the proposed stipulation, settlement agreement, or consent order at a board meeting. The members of the CRC may vote on whether the recommendations should be accepted by the board. If CRC's recommendations are not accepted by the board, the members of the CRC will not be allowed to deliberate concerning or vote on anything further concerning the matter which the CRC has considered.

O. The board may accept or reject the recommendations proposed by the CRC. If the recommendations are accepted by the board, the recommendations will be reduced to writing, signed by the board president and the respondent, and entered as a stipulation, written settlement, or consent order by the board. No further disciplinary action on the matters covered may be undertaken by the board.

P. If CRC's recommendations are not accepted by the board, the board may schedule the complaint for a full hearing or take whatever other action it deems appropriate.

Q. The results of any proposed informal disposition (stipulation, agreed settlement, or consent order recommended by the CRC) or formal disposition (stipulation, agreed settlement, or consent order entered as a

result of a hearing) are public information. Formal dispositions are normally published in the board newsletter and sent to the NCARB.

R. Hearings before the board shall be in accordance with R.S. 37:141 et seq. and the Administrative Procedure Act, R.S. 49:951 et seq.

S. The board may obtain the services of a reporter to make a record of the hearing. The respondent may contact the executive director to determine whether a reporter will be provided by the board.

T. In all cases the board's executive director stands instructed to support and cooperate with counsel and the courts in any manner possible, and to keep the board advised of relevant matters as the case develops.

U. In the board office there shall be maintained a current file of all complaints alleging violations, reflecting all information and action pertinent thereto.

V. Upon its own motion, the board may reopen any such case on record and direct a reinvestigation of the respondent's actions subsequent to resolution to the original complaint.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:575 (April 2003), amended LR 30:

Interested persons may submit written comments on this proposed Rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 9625 Fenway Ave., Suite B, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Informal Procedures for Violations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule merely codifies an informal procedure that the Board has used the past several years in receiving, investigating, processing, and disposing of alleged violations of the architects' licensing law and its rules. Accordingly, there are no estimated costs (savings) to state or local governmental units associated with this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units associated with this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups associated with this proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment associated with this proposed rule.

Mary "Teeny" Simmons	Robert E. Hosse
Executive Director	General Government Section Director
0404#097	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Board of Home Inspectors

Home Inspectors (LAC 46:XL.Chapters 1-7)

The Board of Home Inspectors proposes to amend LAC 46:XL.101, 105, 109, 119, 120, 127, 131, 139, 141, 303, 305, 309, 311, 313, 315, 317, 319, 321, 325, 327, 329, 501, 701, 703, 705, 707, 709, 711, and 713, and repeal LAC 46:XL.323, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana home Inspector Licensing Law, R.S. 37:1471 et seq. The text is being amended and adopted to correct typographical and grammatical errors in the initial draft of the text; to provide additional and clarify existing definitions of terms of art used in the industry; to reflect the recent changes made to the Licensing Law during the last legislative session; to provide standards for in-field training requirements and qualifications; to provide for injunctive relief against violators of the Rules or Law; to bring standards of practice more in line with national standards; to provide a more comprehensive Code of Ethics; and to provide for a more efficient complaint procedure. The proposed Rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The proposed adopted and amended Rules are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XL. Home inspectors
Chapter 1. General Rules
§101. Adoption of Rules

A. This administrative code (Rules of the Board) and all revisions and additions to these Rules shall be adopted in accordance with R.S. 49:950 et seq., the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1474 and R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2738 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§105. Officers; Election; Secretary-Treasurer; Chief Operating Officer; Board Staff; Duties

A. …

B. The board shall employ a secretary-treasurer who shall not be a member of the board to serve as the chief operating officer (COO) of the board. The COO shall employ other staff as reasonably necessary with approval of the board, and subject to budgetary limitations. In the absence of a contrary board pronouncement, the COO shall serve as the board's appointing authority.

B.1 - C. …

D. The board shall be represented by the attorney general's office. In lieu of available representation from the attorney general, the board may retain qualified counsel of its choice as according to law and at fees no higher than the schedule provided by the attorney general for special assistant attorneys general. An attorney is qualified if a reasonable portion of their practice and experience is

obtained from or devoted to administrative agency practice and procedure or civil litigation. In the event the board needs counsel on a specific area of expertise, an attorney may be retained for that purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2738 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§109. Definitions

Applicant? a person who seeks to be examined for licensure by the board.

Board? the Louisiana State Board of Home inspectors.

Code? the Louisiana Home inspectors Licensing Administrative Code, promulgated in LAC 46:XL, Home Inspectors.

Component? a readily accessible and observable aspect of a system, such as a floor or wall, but not individual pieces such as boards or nails or where many similar pieces make up a component.

Credit Hour? one continuing education course classroom hour, comprising at least 50 minutes of instruction.

Home Inspection? the process by which a Home inspector visually examines the readily accessible systems and components of a home and describes those systems and components in accordance with the Standards of Practice.

Home Inspection Report? a written evaluation of two or more of the following systems of a resale residential building:

1. electrical system;
2. exterior system;
3. interior system;
4. heating and cooling systems;
5. plumbing system;
6. roofing system;
7. structural system;
8. Insulation and ventilation system;
9. appliance system;
10. any other related residential housing system as defined in the standards of practice prescribed by the board.

Home Inspector? any person who, in accordance with the provisions of these Rules, holds himself out to the general public and engages in the business of performing home inspections on resale residential buildings for compensation and who examines any component of a building, through visual means and through normal user controls, without the use of mathematical sciences.

Inspection? to examine readily accessible systems and components of a building in accordance with the board's Standards of Practice, by using normal operating controls and by opening readily accessible panels.

Law? the Louisiana Home inspector Licensing Law, R.S. 37:1471-1489.

License Period? one year, expiring on the last day of the month of issuance of the preceding year.

Licensee? any person who has been issued a license by the Board in accordance with the provisions of the law and these Rules.

LSBHI? an acronym for the Louisiana State Board of Home inspectors.

Resale Residential Building? a structure intended to be or that is used as a residence and consists of four or less living units, excluding commercial use space or units, which is not for sale for the first time.

Rules? the body of regulations governing the board's discharge of its duties and responsibilities and prescribing the privileges and obligations of persons desiring to engage in the home inspection business in Louisiana under the Louisiana State Home Inspectors Licensing Law.

System? a combination of interactive or interdependent components assembled to carry out one or more functions.

Timely Filing? a letter or written communication bearing a United States Post Office mark inscribed with the date a filing or report is due at the board. Any report or materials for filing bearing the canceled Postal Mark received on the next business day following the due date are presumed timely filed. Any report or materials for filing received after that time may be deemed timely filed only if evidenced by a return receipt or proof of mailing bearing the due date.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1473 and R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2739 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§115. Licensing Applications; Forms; Terms; Renewals; Inactive Status

A. …

B. All requirements for issuance of a home inspector license, including passing the board approved licensing examination, must be met within one year of the date of application. Applications over one year old will be discarded and a new application and fee will be required.

C. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477, and R.S. 37:1479.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2740 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§119. Education/Training and Testing; Initial Licensure; Waiver

A. …

B. Beginning July 1, 2001 any person filing an initial application for licensure shall present evidence to the board that they have satisfactorily completed at least 120 hours of required home inspection training course(s) by a training provider approved by the board.

1. Thirty hours of the required instruction shall be obtained in the field and be supervised by a licensed home inspector who is a certified training provider approved by the board. The applicant shall be given credit hours for each supervised home inspection attended in accordance with §120. The remainder of the instruction must be classroom hours of home inspection class work approved by the board.

2. …

C. - C.4. …

D. The board shall adopt and approve a licensing examination, which may be administered by a nationally accepted testing service as determined by the board.

E. The board shall review examination material relative to the adoption and approval of licensing examinations. The board shall have complete authority to enter into confidentiality agreements which prohibit the public dissemination of information pertaining to review of

questions or materials, including any questions or materials certified as proprietary by the person or facility submitting them for evaluation. Any person or testing facility submitting evaluation materials for review, certification, or otherwise, conveys and assigns to the board a right of limited use and license solely for use in the certification process and any related inquiry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477, R.S. 37:1479-1480.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2741 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§120. Infield Training; Qualifications; Requirements

A. In order to qualify as an infield trainer, an applicant shall:

1. be a LSBHI licensed home inspector for at least three years;
2. pay the required infield trainer fee(s);
3. be current on all other fees;
4. be current on all continuing education hours; and
5. be approved by the board.

B. Infield training shall consist of live training and dead training which are defined as follows.

Live Training? training of up to two trainees performed by an infield trainer holding an active LSBHI license during an actual, fee paid, live home inspection of a resale residential structure.

Dead Training? training of up to four trainees performed under the supervision of an infield trainer holding an active or inactive LSBHI license, at a residential structure where no inspection fee is paid and no inspection report is provided to a client.

C. Infield training shall consist of a combination of live training and dead training. For each live home inspection attended, the trainee will receive 1.5 credit hours. For each hour of dead training attended, the trainee will receive one credit hour. The trainee must attend a minimum of six live home inspections (nine credit hours) and a minimum of six hours of dead training (six credit hours). The remaining 15 hours of required infield training may be obtained by attending any combination of live and dead training.

D. Prior to admission to an infield training program, the trainee shall complete the required 90 hours of classroom training and pass the licensing exam described in §119.A.

E. Prior to completion of infield training, the trainee shall:

1. prepare a minimum of 10 mock home inspection reports in a format approved by the board that conforms to the requirements of the Standards of Practice;
2. keep all mock home inspection reports for a minimum of three years;
3. complete the board-approved, open book examination of the Standards of Practice and Code of Ethics; and
4. submit the completed examination to the board with his application for licensure.

F. Infield trainers provide the trainee with the following:

1. a completed record of training on a form approved by the board;
2. a copy of the Standards of Practice;
3. a copy of the Code of Ethics; and
4. a copy of the board approved examination of the Standards and Code of Ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477, R.S. 37:1479-1480.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Home Inspectors, LR 30:

§127. Insurance

A. All active, practicing licensed home inspectors shall carry errors and omissions insurance as well as general liability insurance.

1. The LSBHI will establish and/or approve an association or associations for the purposes of availing its licensees to the benefits of group insurance rates. The board shall establish the terms and conditions of coverage, including but not limited to the permissible deductibles and permissible exemptions. Licensees shall have the option of obtaining insurance independently of the approved association or associations that complies with the coverage requirements established by the board.

2. …

B. Each licensee who chooses not to participate in the group insurance association approved by the board shall file with the board a certificate of coverage showing compliance with the required terms and conditions of insurance coverage by the annual license renewal date. The certificate, notice of cancellation, renewal or suspension shall be provided to the board directly by the insurance company.

C. Insurance coverage requirements are as follows:

1. errors and omissions insurance:
   a. minimum coverage $300,000 per year;
   b. maximum deductible $5,000;
2. general liability insurance:
   a. minimum coverage $300,000 per year;
   b. maximum deductible $5,000.

D. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475, R.S. 37:1477 and R.S. 37:1485.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2743 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§131. Exemptions from Licensure

A. Certain individuals, when acting within the scope of their profession or license, are exempt from licensure requirements when performing inspections within their licensed profession or trade. Those individuals are:

1. - 12. …

13. persons who perform warranty evaluations of components, systems, or appliance within resale residential buildings for the purpose of issuance of a home warranty agreement, provided that the warranty evaluation report includes a statement that the warranty evaluation performed is not a home inspection and does not meet the standards of a home inspection under Louisiana law. No home warranty company shall refer to a warranty evaluation as a home inspection in any written materials provided by the warranty company.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1483.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2743 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§139. Prohibited Acts: Penalties and Costs

A. - A.11. …

B. The board may fine any applicant or any member of the public for good cause shown, for activities which include, but are not limited to, the following:

1. aiding or abetting a person to evade the provisions of this Chapter or knowingly conspiring with an unlicensed person with the intent to evade the provisions of this Chapter;

2. engaging in conduct or advertising or holding oneself out as engaging in or conducting the business or acting in the capacity of a home inspector without possessing a valid license.

3. falsely representing oneself as being the holder of a valid license by using the title "licensed home inspector" or any title, designation, or abbreviation deceptively similar or likely to create the impression that such person is licensed.

C. Violators of any of the provisions of these Rules or the law may be fined by the LSBHI in an amount not to exceed $1,000 per each separate violation.

D. Revocation of a license as a result of disciplinary action by the board may prohibit the re-issuance of a license to such licensee for a period of up to one year from the date of revocation. No license may be granted, renewed or re-issued until any and all fines have been paid. The license of an applicant whose license has been revoked may be reissued by the board upon the successful completion by the applicant of the required examination and upon competent evidence of completion of 20 hours of continuing education as prescribed by the board. A licensee on probation may have his license reinstated upon certification by the board that the licensee is in compliance with the terms of his probation.

E. The board, as a probationary condition or as a condition of a revocation or suspension, may require a licensee to pay all costs of the board proceedings, including but not limited to those expenses related to the services of investigators, stenographers, attorney, and any court, agency or board costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1486-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2744 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§141. Cease and Desist Orders; Injunctive Relief

A. - B. …

C. Upon proper showing of the board that such person or firm has engaged in any activity, conduct or practice prohibited by this Chapter, the court shall issue a temporary restraining order restraining the person or firm from engaging in the unlawful activity, conduct or practice, pending hearing on a preliminary injunction. A permanent injunction shall issue after hearing commanding the cessation of the unlawful activity, conduct or practice complained of, all without the necessity of the board having to give bond as usually required in such cases. A temporary order, preliminary injunction or permanent injunction issued enjoining such person or firm shall not be subject to being released upon bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1488.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2745 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

Chapter 3. Standards of Practice

§303. Definitions

A. The definitions in §109 are incorporated into this Chapter by reference. The following definitions apply to this Chapter.

Alarm System? warning devices, whether installed or free standing, including but not limited to, carbon monoxide detectors, flue gas and other spillage detectors, security equipment, ejector pumps and smoke alarms.

Architectural Service? any practice involving the art and science of building design for construction of any structure or group of structures and the use of space within and surrounding the structures of the design for construction, including, but not limited to, schematic design, design development, preparation of construction contract documents and administration of the construction contract.

Automatic Safety Control? devices designed and installed to protect systems and components from unsafe conditions.

Central Air Conditioning? a system that uses ducts to distribute cooled or heated air to more than one room or uses pipes to distribute chilled water to heat exchangers in more than one room, and that is not plugged into an electrical convenience outlet.

Cross Connection? any physical connection or arrangement between potable water and any source of contamination.

Dangerous or Adverse Situations? situations that pose a threat of injury to the inspector, or those situations that require the use of special protective clothing or safety equipment.

Describe? to report, in writing, a system or component by its type, or other observed characteristics, to distinguish it from other systems or components.

Dismantle? to take apart or remove any component, device or piece of equipment that is bolted, screwed, or fastened by other means, that would not be taken apart by a homeowner in the course of normal household maintenance.

Enter? to go into an area to observe all visible components.

Functional Drainage? a drain is functional when it empties in a reasonable amount of time and does not overflow when another fixture is drained simultaneously.

Functional Flow? a reasonable flow at the highest fixture in a dwelling when another fixture is operated simultaneously.

Further Evaluation? examination and analysis by a qualified professional or service technician whose services and qualifications exceed those provided by a home inspector.

Inspect? to examine readily accessible systems and components of a building in accordance with the Standards of Practice, using normal operating controls and opening readily open able access panels.

Installed? attached such that removal requires tools.

Normal Operating Controls? devices such as a thermostats, switches, or valves intended to be operated by the homeowner.

Observe? the act of making a visual examination.

On-Site Water Supply Quality? water quality based on the bacterial, chemical, mineral and solids contents of the water.

On-Site Water Supply Quantity? water quantity based on the rate of flow of water.

Operate? to cause systems or equipment to function.

Recreational Facilities? Spas, saunas steam baths, swimming pools, tennis courts, and exercise, entertainment, athletic, playground or other equipment and associated accessories.

Readily Accessible? available for visual inspection without requiring the moving of personal property, the dismantling, disconnecting, unplugging or destroying of equipment, or any action which may involve a risk to persons or property.

Readily Openable Access Panel? a panel provided for homeowner inspection and maintenance that is within normal reach, can be removed by one person, is not sealed in place and is not blocked by stored items, furniture, or building components.

Representative Number? for multiple identical interior components such as windows and electrical outlets, one such component per room. For multiple identical exterior components, one such component on each side of the building.

Roof Drainage Components? gutters, downspouts, leaders, splash blocks, scuppers, and similar components used to carry water off a roof and away from a building.

Shut Down? a state in which a system or component cannot be operated by normal user controls.

Significantly Deficient? unsafe or not functioning.

Solid Fuel Heating Device? any wood, coal, or other similar organic fuel burning device, including but not limited to fireplaces whether masonry or factory built, fireplace inserts and stoves, wood stoves (room heaters), central furnaces, and combinations of these devices.

Structural Component? a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).

Technically Exhaustive? an inspection involving the extensive use of measurements, instruments, testing, calculations, or other means used to develop scientific or engineering findings, conclusions, and recommendations.

Under Floor Crawl Space? the area within the confines of the foundation between the ground and the underside of the lowest floor structural component.

Unsafe? a condition of a readily accessible, installed system or component which, in the opinion of the inspector, is judged to be a significant risk of personal injury or property damage during normal use or under the circumstances.

Wiring Methods? manner or general type of electrical conductors or wires installed in the structure such as non metallic sheath cable, armored cable, knob and tube, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2745 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§305. Purpose and Scope

A. The purpose of these Standards of Practice is to establish a minimum and uniform standard for Louisiana State Licensed home inspectors. Home inspections performed pursuant to these Standards of Practice are intended to provide the client with information regarding the condition of the systems and components of the home as observed at the time of inspection.

B. Home inspectors shall:

1. - 1.d. …

2. inspect readily accessible installed systems and components listed in this Chapter and/or as contractually agreed upon;

3. submit a written report to the client within five days of the inspection which shall:

a. describe those systems specified to be described in §§311-329, and/or as contractually agreed upon;

b. state which systems designated for inspection in this Section have been inspected, and state any systems or components designated for inspection that were not inspected, and the reason for not inspecting;

c. state any systems or components so inspected that, in the professional opinion of the inspector, are significantly deficient;

d. state the name, license number, and contain the signature of the person conducting the inspection.

C. This Chapter does not limit home inspectors from:

1. reporting observations and conditions or rendering opinions of items in addition to those required in Subsection B of this Rule;

2. excluding systems and components from the inspection, if requested by the client and so stated in the written contract;

3. inspecting systems and components in addition to those required by these Standards of Practice; or

4. specifying needed repairs, provided that the inspector is appropriately qualified to make such recommendation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2746 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§309. General Exclusions

A. Home inspectors are not required to inspect or report on:

1. …

2. the causes of any condition or deficiency;

3. - 5. …

6. any component or system that was not inspected and so stated in the hoe inspection report or Pre-inspection Agreement;

7. the presence or absence of any suspected or actual adverse environmental condition or hazardous substance, including but not limited to toxins such as asbestos, radon and lead, carcinogens, noise, contaminants in the building or in soil, water, and air;

8. decorative or cosmetic items, underground items, or items not permanently installed;

9. hidden, concealed or latent defects; or

10. items not visible for inspection including the condition of systems or components which are not readily accessible; or

11. future conditions, including but not limited to, the likelihood of failure or the expected life of systems of and components.

B. Home inspectors are not required to:

1. …

2. calculate or determine the strength, adequacy, or efficiency of any system or component;

3. enter the under-floor crawl spaces, attics, or any area which, in the opinion of the home inspector, is not readily accessible;

4. - 6. …

7. determine the effectiveness of any system installed to control or remove suspected hazardous substances;

8. project operating costs of components;

9. evaluate acoustical characteristics of any system or component;

10. inspect special equipment or accessories that are not listed as components to be inspected in this Chapter;

11. operate shut-off valves;

12. inspect detached structures, other than garages and carports;

13. inspect common elements or areas in multi-unit housing, such as condominium properties or cooperative housing;

14. dismantle any system or component, except as specifically required by these Standards of Practice.

C. Home inspectors shall not:

1. - 5. …

6. from the time of the inspection through the date of the closing, advertise or solicit to perform repair services or any other type of service on the home upon which he has performed a home inspection; or

7. perform any other type of inspection or other type of services on the home, unless contracted to do so prior to the date of the inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1478.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2746 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§311. Structural Systems

A. The home inspector shall inspect structural components including:

1. foundation;

2. framing;

3. columns or piers.

B. The home inspector shall describe the type of:

1. foundation;

2. floor structure;

3. wall structure;

4. columns;

5. piers;

6. ceiling structure; and

7. roof structure.

C. The home inspector shall:

1. probe structural components only where deterioration is visible, except where probing would damage any surface;

2. enter readily accessible under floor crawl spaces, basements, and attic spaces and, if applicable, report the reason why an area was not readily accessible;

3. report the methods used to inspect or access under floor crawl spaces and attics; and

4. report signs of abnormal or harmful water penetration into the building or signs of abnormal or harmful condensation on building components.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2747 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§313. Exterior System

A. The home inspector shall inspect:

1. wall cladding, flashings and trim;

2. all doors and windows;

3. storm doors and windows;

4. decks, balconies, stoops, steps, areaways, porches, and applicable railings;

5. eaves, soffits, and fascias where visible from the ground level; and

6. vegetation, grading, drainage, driveways, patios, walkways, and retaining walls with respect to their effect on the condition of the building.

B. The home inspector shall:

1. describe wall cladding materials;

2. operate all entryway doors;

3. report whether or not any garage door operator will automatically reverse or stop and whether the operator is equipped with a pressure sensitive reverse feature.

C. The home inspector is not required to inspect:

1. - 7. …

8. detached buildings or structures other than garages and carports;

9. …

10. sea walls, break walls or docks; or

11. erosion control and earth stabilization measures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2747 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§315. Roofing System

A. - A.5. …

B. The home inspector shall:

1. …

2. report the methods used to inspect and access the roofing system and any limitations.

C. The home inspector is not required to:

1. …

2. inspect interiors of flues or chimneys which are not readily accessible; or

3. inspect attached accessories including but not limited to solar systems, antennae, and lightening arrestors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2747 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§317. Plumbing System

A. The home inspector shall inspect:

1. water supply and distribution systems, including:

a. piping materials, supports, insulation;

b. fixtures and faucets;

c. functional flow;

d. leaks; and

e. cross connections;

2. - 4. …

5. sump pumps, drainage sumps, and related piping.

B. The home inspector shall describe:

1. - 4. …

5. the location of main gas supply shutoff device.

C. The home inspector shall operate all plumbing and plumbing fixtures, including their faucets and all exterior faucets attached to the house, except where the flow end of the faucet is connected to an appliance or winterized equipment.

D. The home inspector is not required to:

1. determine the effectiveness of anti-siphon devices;

2. - 4. …

5. determine whether the system is properly sized or utilizes proper materials;

6. inspect:

a. water conditioning systems;

b. fire and lawn sprinkler systems;

c. on-site water supply quantity and quality;

d. on-site waste disposal systems;

e. foundation irrigation systems;

f. spas;

g. swimming pools;

h. solar water heating equipment; or

i. wells, well pumps, or water storage related equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2747 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§319. Electrical System

A. The home inspector shall inspect:

1. service drop and entrance conductors cables and raceways;

2. service equipment, main disconnect device, main and sub-panels, interior panel components, and service grounding;

3. branch circuit conductors, their overcurrent devices, and their compatibility;

4. the operation of a representative number of installed ceiling fans, lighting fixtures, switches and receptacles;

5. the polarity and grounding of all receptacles; and

6. the operation of ground fault circuit interrupters.

B. The home inspector shall describe:

1. service amperage and voltage;

2. wiring methods employed; and

3. the location of main and distribution panels.

C. The home inspector shall report any observed solid conductor aluminum branch circuit wiring for 120 volt circuits.

D. …

E. The home inspector is not required to:

1. - 3. …

4. inspect:

a. low voltage systems;

b. security system devices, heat detectors, carbon monoxide detectors or smoke detectors;

c. telephone, security, cable TV, intercoms, or other ancillary wiring that is not part of the primary electrical distribution system; or

d. remote controlled device unless the device is the only control device; or

5. measure amperage, voltage or impedance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2748 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§321. Air Conditioning and Heating

A. The home inspector shall inspect permanently installed air conditioning and heating systems including:

1. heating cooling and air handling equipment installed through the wall ;

2. normal operating controls;

3. chimneys, flues, and vents, where readily accessible;

4. solid fuel heating devices, including fireplaces;

5. air distribution systems including fans, pumps, ducts and piping, with associated supports, insulation, air filters, registers, radiators, fan coil units, convectors; and

6. the presence of an installed heat and/or cooling source in each habitable room.

B. The home inspector shall describe:

1. energy sources; and

2. the heating and cooling methods by their distinguishing characteristics.

C. - D. …

E. The home inspector is not required to:

1. - 2. …

3. inspect or operate air duct dampers; or

4. inspect:

a. heat exchangers;

b. humidifiers;

c. dehumidifiers;

d. electronic air filters; or

e. the uniformity, adequacy or balance of heat or cooling supply to habitable rooms.

f. solar space heating systems;

g. components of solid fuel heating devices, such as firescreens and doors, seals and gaskets, automatic fuel feed devices, mantles and fireplace surrounds, combustion make-up air devices, heat distribution assists, whether gravity controlled or fan assisted; or

h. ignite or extinguish fires, determine draft characteristics, or move fireplace inserts, stoves or fireboxes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2748 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§323. Central Air Conditioning

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2748 (December 2000), repealed by the Office of the Governor, Board of Home Inspectors, LR 30:

§325. Interior System

A. The home inspector shall inspect:

1. - 3. …

4. a doors and representative number of windows; and

5. garage doors and electronic beam safety reserve features.

B. - B.2 …

C. The home inspector is not required to inspect:

1. - 3. …

4. interior recreational facilities; or

5. garage door operator pressure sensitive reverse failure devices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2749 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§327. Insulation and Ventilation System

A. - B. …

1. insulation and vapor retarders in unfinished spaces; and

B.2. - C.2. ….

D. The home inspector is not required to:

1. disturb insulation or vapor retarders; or

2. determine indoor air quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2749 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§329. Built-in Kitchen Appliances

A. The home inspector shall inspect and operate the basic functions of the following appliances:

1. - 6. …

7. any other built in appliance.

B. The home inspector is not required to inspect:

1. - 3. …

4. central vacuum system.

C - C.2 …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2749 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

Chapter 5. Code of Ethics

§501. Code of Ethics

A. Purpose. Integrity, honesty, and objectivity are fundamental principles embraced by this Code of Ethics, which sets forth the obligations of ethical conduct for the Licensed Home inspector (LHI). The Louisiana State Board of Home Inspectors (LSBHI) has enacted this Code to provide high ethical standards to safeguard the public and the profession. LHIs in Louisiana shall comply with this Code, shall avoid association with any enterprise whose practices violate this Code, and shall strive to uphold, maintain, and improve the integrity, reputation, and practice of the home inspection profession.

B. Ethical Obligations

1. The LHI shall avoid conflicts of interest or activities that compromise, or appear to compromise, professional independence, objectivity, or inspection integrity.

2. The LHI shall not inspect properties for compensation in which he have, or expect to have, a financial interest.

3. The LHI shall not inspect properties under contingent arrangements whereby any compensation or future referrals are dependent upon reported or non-reported findings or on the sale of a property.

4. The LHI shall not directly or indirectly compensate realty agents, or other parties having a financial interest in the closing/settlement of real estate transactions, for the referral of inspections or for inclusion on a list of recommended inspectors, preferred providers, or similar arrangements.

5. The LHI shall not receive compensation from more than one party per inspection unless agreed to by the client(s).

6. The LHI shall not accept compensation, directly or indirectly, for referring or recommending contractors, services, or products to inspection clients or other parties having an interest in inspected properties, unless disclosed and scheduled prior to the home inspection.

7. The LHI shall not repair, replace or upgrade for compensation, reported deficient systems or components covered by these Standards of Practice, until after closing/settlement of the real estate transaction.

8. The LHI shall act in good faith toward each client and other interested parties.

9. The LHI shall perform services and express opinions based upon genuine conviction and only within his areas of education, training or experience.

10. The LHI shall be objective in his reporting and shall not knowingly understate or overstate the significance of observed conditions.

11. The LHI shall not disclose inspection results or a client's personal information without approval of the client or the client's designated representative. At his discretion, the LHI may disclose immediate safety hazards observed to occupants, or interested parties, exposed to such hazards.

12. The LHI shall avoid activities that may harm the public, discredit himself or reduce public confidence in the profession.

13. The LHI shall not disseminate or distribute advertising, marketing, or promotion materials which are fraudulent, false, deceptive, or misleading with respect to the education, experience, or qualifications of the LHI or the company with he is affiliated.

14. The LHI shall include his license number on all advertising, marketing and promotional material.

15. The LHI shall report substantial and willful violations of this Code to the LSBHI.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2749 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

Chapter 7. Disciplinary Actions

§701. Definitions

A. The following definitions are used in this Chapter. The definitions in the law and these Rules are incorporated into Chapter 4, Chapter 5, and Chapter 6 by reference.

File or Filing? to place the document or item to be filed into the care and custody of the board. The board shall note thereon the filing date. All documents filed with the board, except exhibits, shall be filed in duplicate on letter size 8" by 11" paper.

Party? the board, the licensee, and/or any other person who has an administratively cognizable interested in a particular board proceeding.

Service? personal delivery or, unless otherwise provided by law or rule, delivery by certified mail through the United States Postal Service, return receipt requested, addressed to the person to be served at his or her last known address. A Certificate of Service shall be appended to every document requiring service under these Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475, R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2750 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§703. Complaints

A. Anyone with knowledge that a licensee or member of the public is or has been engaged in any conduct proscribed by the law or these Rules, may file a written complaint with the board against that person.

B. An information memorandum approved by the board containing instructions for filing a complaint shall be mailed to anyone requesting such information from the board and shall be made available on the board's official website.

C. The complaint shall specifically identify the licensee or member of the public and describe the misconduct.

D. The complaint shall refer to specific violations of the board's Rules or of the law. If the complaint involves violations of the Standards of Practice that the licensee did not observe or report, a list of those items must be submitted with the complaint. A copy of any documentation supporting the allegations shall be filed with the complaint, if available, including but not limited to, the pre-inspection agreement, the inspection report, and any reports made by any other consultant.

E. The complaint shall be in writing, signed by the complainant, and dated. The complaint shall include the complainant's mailing address, a daytime phone number at which the complainant may be reached, and the street address of the structure made the basis of the complaint, if applicable.

F. The board shall not consider complaints against those performing services that are under the jurisdiction of other regulatory agencies or licensing boards, such as, wood destroying insect inspections, appraisals, or services rendered by licensed architects, engineers, or general contractors, unless the persons rendering those services are licensed home inspectors or hold themselves out as, or engage in the business of, a home inspector.

G. Based upon his review of the records of the board kept in the ordinary course of business, the Chief Operating Officer of the board may initiate a complaint against a licensee based upon the licensee's delinquency or failure to make timely payment of fees, fines or assessments or upon the licensee's failure to comply with reporting requirements, continuing education requirements, insurance requirements, or other requirements of the licensee. In all such cased, the Chief Operating Officer shall send the licensee notification by certified mail specifically outlining the delinquency or violation, including any amounts due. The licensee shall either, pay any fees due, comply with any requirements stated or respond within 14 days receipt of the notice disputing the claim or amounts due. A licensee's failure to respond within the delays shall be prima facie proof of his noncompliance subjecting the licensee to immediate suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475, R.S. 37:1483, R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2750 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§705. Special Investigating Entity

A. For all complaints filed pursuant to §703.A, the board shall appoint a committee, board member, employee, or other qualified licensee to verify whether the allegations listed in the complaint may indicate violations of these Rules, the Standards of Practice, Code of Ethics or the law. This committee, board member, employee or licensee shall be referred to as the "Special Investigating Entity." The chairman may appoint a special investigating entity at any time to commence review of a complaint. This appointment shall be ratified by the board in executive session at its next meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2750 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§707. Investigations; Special Investigating Entity; Board Review

A. …

B. A copy of the complaint shall be served upon the home inspector or member of the public in accordance with §707.D. The inspector shall submit a written response to the special investigating entity within two weeks after receipt of the copy of the complaint.

C. …

D. A copy of the Special Investigating Entity's report shall be mailed to the complainant and to the inspector by certified mail.

E. …

F. If the report states that the allegations lack sufficient evidence, the special investigating entity shall:

1. advise the complainant and licensee in writing that the evidence was insufficient to support the allegations in the complaint;

2. advise the complainant and licensee that the complaint may be reviewed by the board to determine whether the finding of the special investigating entity is correct;

3. advise the complainant and licensee that the complainant must make a written request for the review by the board within 15 days of mailing, must support the complaint with additional documentation and must set forth

specific reasons why the special investigating entity's determination is incorrect.

G. If the complainant makes a written request for review by the board, the board shall review the report and the complainant's documentation. If the board finds that the allegations are unsupported by the evidence, the special investigating entity shall advise the complainant in writing that the board has concurred with the special investigating entity's conclusion that the complaint lacks sufficient evidence to support the allegations in the complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2750 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§709. Disciplinary Hearing; Procedure

A. …

B. The notice required under §709.A shall:

1. include a statement of the time, place, and nature of the hearing;

2. include a statement of the legal authority under which the hearing is to be held;

3. include reference to the particular sections of the statutes and rules involved;

4. include a short and plain statement of he matters asserted; and

5. be sent by certified mail.

C. In all contested case hearings before the board, the chairman of the board shall serve as presiding officer. In the absence of the chairman, the vice chairman shall serve as presiding officer, or a presiding officer shall be selected by the board.

D. No board member, committee or employee serving as part of the special investigating entity shall participate in the consideration or decision of the matter or confection of the board's decision, order or opinion. However, any member of the special investigating entity may prosecute the case against the licensee or respondent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2751 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§711. Pre-Hearing Resolution

A. The board's staff and the licensee or other person against whom a complaint has been brought may attempt to resolve the complaint by means of a consensual agreement. Such consensual agreement may impose upon the licensee or other person penalties or conditions which include, but are not limited to, requiring the licensee to complete additional training or educational courses, placing the inspector on probation, issuing a letter of reprimand, imposing fines of up to $1,000 per separate violation, and/or suspending or revoking the inspector's license, all as authorized in the law or these Rules.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475, R.S 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2751 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

§713. Hearing Procedure; Decision; Notice; Effective Date; Rehearing

A. …

B. No attorney, board member or employee serving as the prosecuting officer for the board shall participate in the consideration or formulation of the board's decision, any opinion related thereto, or any procedural matter.

C. …

D. All parties of record shall receive notice of the board's decision within 30 days of the vote on the matter.

E. A board decision or order may be reconsidered by the board at the next board meeting on its own motion or on motion by a party of record, for good cause shown pursuant to a written request filed at the board's office within 10 days following the decision date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475, R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2751 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:

Interested parties may submit written comments to Don Lewis, Chief Operating Officer, Louisiana State Board of Home Inspectors, P.O. Bo x 14868 Baton Rouge, LA, 70898-4868 or by facsimile to (225) 248-1335. Comments will be accepted through the close of business May 1, 2004. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedures Act, the hearing will be held on June 4, 2004 at 10 a.m. at the office of the State Board of Home Inspectors, 4664 Jamestown, Suite 220, Baton Rouge, LA.

Albert J. Nicaud
Board Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Home Inspectors

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated costs or savings to local governmental units, except for those associated with the publication of the amendments and adopted Rules. Licensees and the interested public will be informed of these Rule changes via the board's regular newsletter, direct mailings, website postings or other means of communication, which result in minimal costs to the board.

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 as no increase in fees will result from the changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment anticipated as a result of the proposed Rule changes.

Albert J. Nicaud	H. Gordon Monk
Board Attorney	Staff Director
0404#073	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Real Estate Commission

Mold Disclosure
(LAC 46:LXVII.3801)

Under the authority of R.S. 37:1430 et seq. (Louisiana Real Estate License Law), and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Real Estate Commission has initiated procedures to amend LAC 46:LXVII, Professional and Occupational Standards, Real Estate, to include Chapter 38, Mold Disclosure, Section 3801, Mold Informational Pamphlets.

The proposed Rule names the United States Environmental Protection Agency as the official source of the mold informational pamphlets approved by the Real Estate Commission. The proposed Rule outlines the compliance procedures for real estate licensees who choose to deliver mold information to a buyer.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate
Chapter 38. Mold Disclosure
§3801. Mold Informational Pamphlets

A. The United States Environmental Protection Agency (EPA) shall be the official source of any mold informational pamphlet approved by the Louisiana Real Estate Commission.

B. A licensee who chooses to deliver mold information to a buyer shall be deemed in compliance with R.S. 37:1470.A(1) if the licensee performs at least one of the following:

1. delivers *A Brief Guide to Mold, Moisture, and Your Home* [EPA 402-K-02-003], or any successor thereof, to a residential buyer; or

2. delivers *Mold Remediation in Schools and Commercial Buildings* [EPA 402-K-01-001, March 2001], or any successor thereof, to a commercial buyer; or

3. directs a buyer to the mold informational pamphlets maintained on the United States Environmental Protection Agency (EPA) website at http://www.epa.gov/iaq/molds/index.html, or any successor thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1430 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Real Estate Commission, LR 30:

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the April 20, 2004 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy.

Interested parties are invited to submit written comments on the proposed regulations through May 2, 2004 at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA, 70898-4785 or to 9071 Interline Avenue, Baton Rouge, LA, 70809.

Julius C. Willie
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Mold Disclosure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

In accordance with Act No. 1123 of the 2003 Regular Session, the Louisiana Real Estate Commission has approved a mold informational pamphlet, which may be distributed to buyers by licensees in connection with any real estate transaction entered into on and after July 1, 2004. There are no implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units. The mold information pamphlet approved by the Louisiana Real Estate Commission is a product of the United States Environmental Protection Agency from which the pamphlet may be obtained at no charge.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The mold informational pamphlet approved by the Louisiana Real Estate Commission is a product of the United States Environmental Protection Agency from which the pamphlet may be obtained at no charge. Buyers of real property who are provided the mold informational pamphlet will receive information and guidance on how to clean up residential mold problems and how to prevent mold growth.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Real estate licensees who do not comply with the provisions of R.S. 37:1470.A(2) may have their license censured, suspended, or revoked, and be subject to a fine or civil penalty, as provided in R.S. 37:1455.A(1) of the Louisiana Real Estate License Law.

Julius C. Willie	Robert E. Hosse
Executive Director	General Government Section Director
0404#069	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Practical Nursing Examiners

Public Comment, Licensure, Adjudication, Program Evaluation
(LAC 46:XLVII.301, 303, 306, 1105, and 1305)

The Board of Practical Nurse Examiners proposes to amend LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The purpose of the proposed Rule change to §301 is to establish guidelines for public comment at open meetings of the board. The purpose of the proposed Rule change to §303 is to provide for potential use of the licensure examination at points in the career of a licensee post initial licensure. The purpose of the proposed Rule changes to §306 is to delete unnecessary and redundant language, to make affected sections clearer, to standardize language used in the rules of the board, to ensure that the rules are in compliance with the Administrative Procedure Act, to set forth what is required of respondents during board investigation of complaints, to clarify how time is calculated in matters related to discipline, to provide the specific process for conclusion of disciplinary matters by default, and to provide additional grounds for disciplinary action against a licensee. The purpose of the proposed Rule changes to §§1105 and 1305 is to provide for first time writers in a graduating class to be the population on which pass/fail rates are calculated and to provide for the use of additional outcome measures in board evaluation of educational programs.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
PART XLVII. Nurses
Subpart 1. Practical Nurses
Chapter 3. Board of Practical Nurse Examiners

§301. Organization

A. The Louisiana State Board of Practical Nurse Examiners consists of members appointed by the Governor and is the regulatory agency created by statute to act with legal authority on matters related to practical nursing education and the practice of practical nursing in Louisiana as determined by the Louisiana Revised Statutes, Title 37, Section 961 et seq., as amended.

B. Public comment shall be allowed at open meetings of the board subject to the following rules.

1. Public comment shall be limited to matters set by the board's agenda for discussion at that meeting.

2. Public comment shall be limited to three minutes per individual unless a majority of the board members in attendance vote to extend this limit.

3. Anyone wishing to offer public comment under these rules must present a written request prior to the convening of the meeting. This request must include the name of the individual who will make public comment, the name of the party this individual represents, and the specific agenda item the individual will address. A separate request must be completed for each agenda item to be addressed.

4. The time(s) at which public comment is allowed as to any given agenda item shall be subject to the discretion of the board chair and may vary from meeting to meeting.

5. Unless otherwise provided by law, public comment is not part of the evidentiary record of any adjudication, disciplinary hearing or case unless sworn, offered by a party as relevant testimony, subject to cross examination and offered and received in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq. and these rules and regulations of the Louisiana State Board of Practical Nurse Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, and 37:962 as amended Act 272, 1982 and Act 642, 1990.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:192 (April 1977), amended LR 5:355 (November 1979), LR 10:335 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1126 (October 1992), repromulgated LR 18:1259 (November 1992), amended LR 26:2614 (November 2000), LR 30:

§303. Additional Duties and Powers of the Board

A. - A.2. …

3. determine the passing score for the practical nursing licensure examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:193 (April 1977), amended LR 10:335 (April 1984), amended LR 26:2614 (November 2000), LR 28:2353 (November 2002), LR 29:127 (February 2003), LR 30:

§306. Adjudication Proceedings

A. All adjudication proceedings (as defined in R.S. 49:951) conducted by the board shall be in accordance with the Administrative Procedure Act, R.S. 49:955 et seq.

B. All proceedings calling for disciplinary action, as set forth in R.S. 37:969 (4) or as set forth in this Section 306 (R), regarding a license, shall begin with the receipt by the board of allegation(s) pertaining to the violation(s) of any provisions of R.S. 37:961 et seq., as stated in that statute, or any provision of these rules and regulations of the Louisiana State Board of Practical Nurse Examiners.

C. - E. …

F. If formal proceedings are deemed necessary by the executive director, a formal hearing shall be conducted before a hearing officer designated by the board. A decision to initiate formal proceedings may be made if one or more of the following conditions exist.

1. The allegation(s) are sufficiently serious.

2. The respondent fails to reply to the board's correspondence concerning the allegation(s).

3. The response to the board's correspondence is deemed insufficient or unsatisfactory.

a. In furtherance of the objective(s) set forth in R.S. 37:961 et seq. and these rules and regulations of the Louisiana State Board of Practical Nurse Examiners, a respondent shall, upon written request, provide the board with any and all information, document(s) and/or thing(s) requested, within 10 days, including weekends and holidays, from the date of the board's request.

b. Failure to respond to a request by the board, or failure to provide a response that the board deems satisfactory or sufficient, may result in the immediate suspension of the respondent's license or may result in the board taking any other action the board deems necessary commensurate with its philosophy of commitment to the health, safety and welfare of the public.

4. An informal proceeding has failed to resolve all of the issues or allegation(s).

G. Proceedings that require an opportunity for hearing shall commence with the filing of a formal complaint by the board. The complaint shall serve as the notice required by the Administrative Procedure Act 49:955(B) and shall include the following:

1. a statement of the time, place and nature of the hearing;

2. a statement of the legal authority and jurisdiction under which the hearing is to be held;

3. a reference to the particular sections of R.S. 37:961 et seq., and a reference to the particular section of the rules and regulations of the Louisiana State Board of Practical Nurse Examiners;

4. a short and plain statement of the matters asserted. If the board is unable to state the matters in detail at the time the complaint is served, the initial complaint may be limited to a statement of the issues involved. Thereafter, upon request, a more definite and detailed statement shall be furnished.

H. The formal complaint shall be sent by certified mail, at least 20 days including weekends and holidays, prior to the hearing date, to the last known address of the respondent. It is the licensee's obligation and duty to keep the board informed of his/her whereabouts.

I. The respondent shall return his/her reply to the complaint to the board at least 10 days, including weekends and holidays, prior to the date fixed for the hearing or shall be deemed to have waived his/her right to a hearing. In reply, the respondent shall either deny or admit the allegations of the complaint and may either:

1. appear for the scheduled hearing;

2. submit a written response to the hearing officer to be presented at the hearing in lieu of the respondent's live testimony; or

3. waive his/her right to a hearing.

J. If the respondent waives his/her right to a hearing, the board may take any appropriate disciplinary action by default. If the respondent does not reply in writing within the time allotted, the hearing may proceed as scheduled in the respondents absence or the board may take any appropriate disciplinary action by default.

K. ...

L. Except for conditions of extreme emergency, motions requesting the continuance of a formal hearing must be received by the board at least seven days, including weekends and holidays, prior to the date fixed for a formal hearing. Such motion must express the specific reason(s) and show good cause why a continuance is warranted and necessary in promoting due process.

M. Discovery

1. Prior to a formal hearing, a respondent shall have the right to retain an attorney to represent his/her interest before, during, and after the proceedings. All costs and/or expenses incurred by a respondent as a result of his/her exercise of said right shall be the sole responsibility and obligation of the respondent.

2. Prior to a formal hearing, the executive director or his/her designee will, upon written request received by the board at least 10 days, including weekends and holidays, prior to the formal hearing, issue subpoenas on behalf of the board and/or the accused. Such subpoenas include or are for the purpose of:

a. requiring that a person appear and give testimony in the formal hearing; and/or

b. requiring that a person produce books, records, correspondence, or other materials over which he/she has control providing:

i. - iv. ...

3. Prior to a formal hearing, the respondent shall, upon written notice received by the board at least seven days, including weekends and holidays, prior to said hearing, be given a list of all witnesses the board will or may call to give testimony during a formal hearing.

4. Depositions for the purpose of discovery are permitted and may also be allowed for the perpetuation of a witness' testimony upon good showing to the board that a witness will be unavailable to appear in person at a formal hearing. All costs of a deposition are borne by the requesting party.

5. Motions may be made before, during, and/or after a formal hearing. All motions made before or after a formal hearing shall be made in writing and in a timely manner in accordance with the nature of the request.

N. During a formal hearing, all parties shall be afforded the opportunity to present documentary, visual, physical or illustrative evidence and to cross-examine witnesses as well as call witnesses to give oral testimony. All testimony given during a formal hearing shall be under oath and may be before a certified stenographer.

O. The record of the proceeding shall be retained until such time for any appeal has expired or until an appeal has been concluded. The record of the proceeding need not be transcribed until such time as a party to the proceeding so requests and the requesting party pays for the cost of the transcript.

P. ...

Q. The board shall make a decision based on the entire record, including the hearing officer's report and determine what sanctions, if any, should be imposed and issue an appropriate order with respect thereto. This order of the board shall be sent to the respondent by certified mail.

R. Disciplinary action(s) imposed by the board may include reprimand, probation, suspension, revocation, as well as penalties provided under R.S. 37:961 et seq., as amended and/or these rules and regulations of the Louisiana State Board of Practical Nurse Examiners and/or any combination thereof.

1. - 2. ...

3. Suspension. A license to practice practical nursing in the state of Louisiana may be withheld by the board. A licensee whose license is suspended may not practice practical nursing in the state of Louisiana during the suspension period so designated. The time of suspension may be a definite stated period or an indefinite term.

a. Definite time of suspension shall be stipulated by the board in the order to the licensee. Upon termination of the time period, the licensee shall be entitled to receive his/her license upon payment of the required fee and upon documented compliance with the conditions that may have been imposed by the board at the time of the original order.

b. If a license is suspended for an indefinite term, the licensee may petition for reinstatement of his/her license only after one calendar year has lapsed from the date of the original order. The board may terminate the suspension and reinstate such license after the board determines, with or without hearing, that the cause/causes for the suspension no longer exist or that intervening circumstances have altered the condition leading to the suspension. If reinstatement is granted, the licensee shall pay the required reinstatement fee.

4. ...

S. A petition by a party for reconsideration or rehearing must be filed in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

T. The grounds for disciplinary proceedings include, but are not limited to:

1. - 3. ...

4. being habitually intemperate or addicted to the use of habit-forming drugs;

5. - 6. ...

7. using in connection with his/her name any designation tending to imply that he/she is a practical nurse without being duly licensed to practice by the board; or

8. being guilty of unprofessional conduct; unprofessional conduct includes, but is not limited to the following:

a. - m. ...

n. being convicted of a crime or offense which reflects the inability of the nurse to practice practical nursing with due regard for the health and safety of clients or patients or entering a plea of guilty or nolo contendere to a criminal charge regardless of final disposition of the criminal proceeding including, but not limited to, expungement or nonadjudication or pardon;

o. - p. ...

q. using or being under the influence of alcohol while on duty, and/or while making application for employment, or using or being under the influence of drugs which impair judgement while on duty, or using or being under the influence of illegal drugs whether on or off duty;

r. possessing a physical or psychological impairment that interferes with the judgment, skills or abilities required for the practice of practical nursing;

s. refusing to cooperate with employer's request to submit to a drug screen;

t. violating any provisions of R.S. 37:961 et seq. (the practical nursing practice act), as amended or aiding or abetting therein.

U. The board may, at its discretion, impose a reasonable monetary assessment against the respondent for the purpose of defraying expenses of a hearing and/or expenses of the board in monitoring any disciplinary stipulations imposed by order of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:978 and Acts 675 and 827, 1993.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 20:663 (June 1994), amended LR 26:2614 (November 2000), LR 28:2353 (November 2002), LR 30:

Chapter 11. Program Progression

§1105. Student and Program Evaluation

A. - A.3. ...

4. evaluation and grading systems that shall be realistic and consistent with the objectives of the program.

5. evaluation of student transcripts submitted to the board for application for licensure by examination or endorsement will be based on a letter grade of "C" or number grade of "80" out of 100 in each and every course. A grade of "Pass" will be acceptable for clinical grades if "Pass" is interpreted as "80" or above out of 100.

B. Program evaluation shall be based upon standardized achievement test scores, student retention rate in the practical nursing program, stability of the program faculty and administration of the school, the performance of graduates, graduate placement, and results of the practical nursing licensure examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:198 (April 1977), amended LR 10:340 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1128 (October 1992), repromulgated LR 18:1262 (November 1992), amended LR 30:

Chapter 13. Program Approval and Accreditation

§1305. Types of Approval

A. - A.2. ...

3. A program on initial approval which does not maintain the minimum requirements of the board, including that of less than 20 percent failure rate of first time writers per class on the practical nursing licensure examination may be subject to closure by the board when the currently enrolled class completes and, until examination results are received, the next class cannot be admitted. At the time the examination results are received, the board will make further determination.

B. - D. ...

E. Provisional Approval

1. Programs having been approved by the board that fail to maintain minimum requirements and/or which receive a 20 percent or higher failure rate for first time writers per graduating class on the practical nursing licensure examination may be placed on provisional accreditation.

2. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), amended LR 5:355 (November 1979), LR 10:340 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1129 (October 1992), repromulgated LR 18:1262 (November 1992), amended LR 26:2617 (November 2000), LR 30:

Family Impact Statement

The proposed amendments to Rule XLVII.Subpart 1 should not have any impact on family as defined by R.S. 49:972. There should not be any effect on: the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family earnings and family budget, the behavior and personal responsibility of children, and/or the ability of the family or local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments until 3:30 p.m., June 10, 2004, to Claire Doody Glaviano, Board of Practical Nurse Examiners, 3421 N. Causeway, Ste. 505, Metairie, LA 70002.

Claire Doody Glaviano
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Public Comment, Licensure, Adjudication, Program Evaluation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost associated with the implementation of the proposed rule changes will be the cost to publish the rule in the Louisiana Register at $400.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no financial effect upon state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will have no significant effect on costs and/or economic benefits to directly affected persons, or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Claire Doody Glaviano RN, MN	H. Gordon Monk
Executive Director	Staff Director
0404#015	Legislative Fiscal Office

NOTICE OF INTENT

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

Durable Medical Equipment Program
Negative Pressure Wound Therapy
(LAC 50:XVII.3111-3123)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XVII.3111-3123 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 promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for negative pressure wound therapy under the Durable Medical Equipment (DME) Program. The bureau now proposes to adopt criteria for the authorization of negative pressure wound therapy.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing negative pressure wound therapy.

Title 50
PUBLIC HEALTH? MEDICAL ASSISTANCE
Part XVII. Durable Medical Equipment
Subpart 1. Prosthetics
Chapter 31. Skin Care and Infection Control
Subchapter B. Negative Pressure Wound Therapy

§3111. Definitions

Lack of Improvement of a Wound (as used within this Subchapter B)**?** a lack of progress in quantitative measurements of wound characteristics including wound length and width (surface area), or depth measured serially and documented over a specified time interval. Wound healing is defined as improvement occurring in either surface area or depth of the wound.

Licensed Health Care Professional (for the purposes of this Subchapter B)**?** may be a physician, registered nurse (RN), or physical therapist (PT). The practitioner must be licensed to assess wounds and/or administer wound care.

Negative Pressure Wound Therapy (NPWT)**?** the controlled application of sub-atmospheric pressure to a wound using an electrical pump to intermittently or continuously convey sub-atmospheric pressure through connecting tubing to a specialized wound dressing which includes a resilient, open-cell foam surface dressing, sealed with an occlusive dressing that is meant to contain the sub-atmospheric pressure at the wound site and thereby promote wound healing. Drainage from the wound is collected in a canister.

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 30:

§3113. Covered Services

A. Equipment and supplies used in negative pressure wound therapy include:

1. a stationary or portable NPWT electrical pump;
2. a dressing set; and
3. a canister set.

B. The stationary or portable NPWT electrical pump provides controlled sub-atmospheric pressure that is designed for use with NPWT dressings to promote wound healing. Such a NPWT pump is capable of being selectively switched between continuous and intermittent modes of operation and is controllable to adjust the degree of sub-atmospheric pressure conveyed to the wound in a range from 25 to greater than 25 mm Hg sub-atmospheric pressure. The pump is capable of sounding an audible alarm when desired pressures are not being achieved such as where there is a leak in the dressing seal, and when the wound drainage canister is full. The pump is designed to fill the canister to full capacity.

C. The dressing set used in conjunction with a stationary or portable NPWT pump must contain all necessary components including, but not limited to, a resilient, open-cell foam surface dressing, drainage tubing, and an occlusive dressing which creates a seal around the wound site for maintaining sub-atmospheric pressure at the wound.

D. The canister set used in conjunction with a stationary or portable NPWT pump must contain all necessary components, including but not limited to a container, to collect wound exudates. Canisters may be various sizes to accommodate stationary or portable NPWT pumps.

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 30:

§3115. Medical Necessity Criteria

A. Negative wound pressure therapy is considered to be medically necessary when the following criteria are met.

1. Treatment of Ulcers and Wounds in the Home Setting. The patient has a chronic Stage III or IV pressure ulcer, neuropathic (such as diabetic) ulcer, venous or arterial insufficiency ulcer, or a chronic (being present for at least 30 days) ulcer of mixed etiology. A complete wound therapy program described by the criterion in Subparagraph a and criteria set forth in Subparagraphs b, c, or d, as applicable depending on the type of wound, must have been addressed, applied, or considered and ruled out prior to application of NPWT.

a. For all ulcers or wounds, the following components of a wound therapy program must include a minimum of all of the following general measures, which should either be addressed, applied, or considered and ruled out prior to the application of NPWT:

i. documentation in the patient's medical record of evaluation, care and wound measurements by a licensed medical professional; and

ii. application of dressings to maintain a moist wound environment; and

iii. debridement of necrotic tissue, if present; and

iv. evaluation of and provisions for adequate nutritional status.

b. For Stage III or IV pressure ulcers:

i. the patient has been appropriately turned and positioned; and

ii. the patient has used a group 2 or 3 support surface for pressure ulcers on the posterior trunk or pelvis (a group 2 or 3 support surface is not required if the ulcer is not on the trunk or pelvis); and

iii. the patient's moisture and incontinence have been appropriately managed.

c. For neuropathic (for example, diabetic) ulcers:

i. the patient has been on a comprehensive diabetic management program; and

ii. reduction in pressure on a foot ulcer has been accomplished with appropriate modalities.

d. For venous insufficiency ulcers:

i. compression bandages and/or garments have been consistently applied; and

ii. leg elevation and ambulation have been encouraged.

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 30:

§3117. Continued Coverage

A. For wounds and ulcers described in §3115, in order to continue coverage of an NPWT pump and supplies, a licensed medical professional must comply with the following requirements:

1. on a regular basis:

a. directly assess the wound(s) being treated with the NWPT pump; and

b. supervise or directly perform the NPWT dressing changes; and

2. on at least a monthly basis, document changes in the ulcer's dimensions and characteristics.

B. Coverage of NWPT will be discontinued after three months if there is a lack of improvement of the wound(s).

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 30:

§3119. Coverage Exclusions

A. a negative pressure wound therapy pump and supplies will be denied as not medically necessary if one or more of the following conditions are present:

1. the presence in the wound of necrotic tissue with eschar, if debridement is not attempted;

2. untreated osteomyelitis within the vicinity of the wound;

3. cancer is present in the wound; or

4. the presence of a fistula to an organ or body cavity within the vicinity of the wound.

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 30:

§3121. Provider Responsibilities

A. Documentation Requirements

1. A written order for the negative pressure wound therapy pump and supplies shall be signed and dated by the treating physician and submitted with the prior authorization request. The order shall include the type of supplies ordered and the approximate quantity to be used per unit of time.

2. Documentation of the history, previous treatment regimens, and current wound management for which a NPWT pump is being billed shall be submitted with the prior authorization request. This documentation shall include such elements as length of sessions of use, dressing types and frequency of change, and changes in wound conditions, including:

a. precise measurements;

b. quantity of exudates;

c. presence of granulation and necrotic tissue; and

d. concurrent measures being addressed relevant to wound therapy (debridement, nutritional concerns, support surfaces in use, positioning, incontinence control, etc.).

3. Documentation shall indicate regular evaluation and treatment of the patient's wounds. Documentation of quantitative measurements of wound characteristics including wound length and width (surface area), and depth, and amount of wound exudates (drainage), indicating progress of healing shall be entered at least monthly. The supplier of the NPWT equipment and supplies shall obtain an assessment of wound healing progress, based upon the wound measurement as documented in the patient's medical record from the treating clinician, and submit to the prior authorization unit in order for a determination to be made as to whether the equipment and supplies continue to qualify for Medicaid coverage.

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 30:

§3123. Reimbursement

A. The Health Care Common Procedure Coding System shall be used to bill for negative pressure wound therapy equipment and supplies. Only the products referred to in this Subchapter B are reimbursable by Medicaid. These products shall meet approved Medicare guidelines and codes. Claims for negative pressure wound therapy equipment and supplies shall be reimbursed at 80 percent of the 2004 Medicare DMEPOS fee schedule for Louisiana.

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 30:

Family Impact Statement

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. It is anticipated that implementation of this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 as it will promote the health and welfare of Medicaid recipients by facilitating access to this medically necessary medical equipment.

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 Thursday, May 27, 2004 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Durable Medical Equipment Program Negative Pressure Wound Therapy

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated cost avoidance to the state of approximately $44,292 for SFY 2004-2005, $48,446 for SFY 2005-2006 and $49,900 for FY 2006-2007. It is anticipated that $612 ($306 SGF and $306 FED) will be expended in SFY 2003-2004 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 decrease federal revenue collections by approximately $109,445 for SFY 2004-2005, $119,712 for SFY 2005-2006 and $123,303 for SFY 2006-2007. $306 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule adopts criteria for the authorization of negative pressure wound therapy (Reimbursement rates are established at 80 percent of the 2004 Medicare DME Prosthetics, Orthotics and Supplies fee schedule for Louisiana). It is anticipated that implementation of this proposed rule will result in a reimbursement reduction of $153,737 for SFY 2004-2005, $168,158 for SFY 2005-2006 and $173,203 for SFY 2006-2007.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Ben A. Bearden	H. Gordon Monk
Director	Staff Director
0404#088	Legislative Fiscal Office

NOTICE OF INTENT

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

Facility Need Review
Additional Beds for Certain ICF-MRs
(LAC 48:I.12503)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends LAC 48:I.12503, Determination of Bed Need, as authorized by R.S. 40:2116. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Act 900 of the 2003 Regular Session of the Legislature, effective August 15, 2003, enacted R.S. 40:2116(G), which grants an exemption from the usual requirements of the Facility Need Review process as set out in R.S. 40:2116 and in the Department's rules and regulations. Any intermediate care facility for the mentally retarded which serves children or adults suffering from mental retardation, autism, or behavioral problems and has at least 150, but no more than 180 beds, is eligible for the exemption. The exemption is granted for a maximum of 50 additional beds. The legislature did not appropriate any funds to the department to cover the increased expenses it will incur for Medicaid payments for the residents who will occupy the additional beds. The department promulgated an Emergency Rule amending the August 1995 Rule governing the Facility Need Review Process in order to implement the provisions of Act 900 (*Louisiana Register*, Volume 29, Number 11). The department amended the December 1, 2003 Emergency Rule to waive the deadline for enrolling the additional beds after approval (*Louisiana Register*, Volume 30, Number 2). The department now proposes to continue the provisions of the February 20, 2004 Emergency Rule.

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. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972. The proposed Rule will expand the current level of services and allow children to be placed in a group home setting where a plan of care can be developed to enable the child to learn behavior skills and methods to enable them to lead a more independent life.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends the rules on Facility Need Review.

Title 48
PUBLIC HEALTH? GENERAL
Part I. General Administration
Subpart 5. Health Planning
Chapter 125. Facility Need Review
§12503. Determination of Bed Need

A. - A.7.h. …

8. Exception for Additional Beds for Certain ICF-MRs. Any ICF-MR which serves children or adults suffering from mental retardation, autism or behavioral problems and

which had no less than 150 and no more than 180 approved beds as of August 15, 2003, shall, upon application to the Department, be granted approval for up to 50 additional beds without being required to meet the standards set forth in Paragraphs A.1-6 above, §12501.F.2 or §12505.

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 28:2190 (October 2002), LR 30:

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 Thursday, May 27, 2004 at 9:30 a.m. in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Facility Need Review Additional Beds for Certain ICF-MRs

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 $20,007 for SFY 2003-2004, $245,610 for SFY 2004-2005 and $252,978 for FY 2005-2006. It is anticipated that $272 ($136 SGF and $136 FED) will be expended in SFY 2003-2004 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 $50,087 for SFY 2003-2004, $617,390 for SFY 2004-2005 and $635,912 for SFY 2005-2006. $136 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the February 20, 2004 emergency rule to waive the deadline for Intermediate Care Facilities for the Mentally Retarded (ICF-MR) to enroll additional beds after their approval. It is anticipated that implementation of this proposed rule will increase expenditures to ICF-MRs (reimbursement for 16 additional beds effective 6/04) by $69,822 for SFY 2003-2004, $863,000 for SFY 2004-2005 and $888,890 for SFY 2005-2006.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition. Employment opportunities could be enhanced because of the additional ICF-MR beds.

Ben A. Bearden
Director
0404#089

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

Medicaid Eligibility? Filing of Applications
(LAC 50:III.501)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby adopts LAC 50:III.501 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 promulgated in accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule promulgating the *Medicaid Eligibility Manual* by reference (*Louisiana Register*, Volume 22, Number 5). The May 20, 1996 Rule was later repromulgated to correct an error in the original text of the Rule (*Louisiana Register*, Volume 22 Number 7).

Current Medicaid policy requires a written application form to be completed and signed by the applicant. In order to simplify the Medicaid application process and create greater accessibility to Medicaid benefits, the department proposes to amend the May 20, 1996 Rule pertaining to the filing and signing of applications for Medicaid to authorize applicants to file and sign their applications electronically.

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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends the May 20, 1996 Rule pertaining to the filing and signing of applications for Medicaid.

Title 50
PUBLIC HEALTH? MEDICAL ASSISTANCE
Part III. Eligibility
Chapter 5. Application Processing
§501. Filing Application

A. The bureau requires an applicant to complete and sign a written application in order to initiate the eligibility determination process for Medicaid benefits. The applicant's signature on the application affirms that all of the information contained on the form is true and correct or the applicant could be subject to a penalty for perjury. In order

to facilitate the application process, the bureau authorizes the electronic filing of Medicaid applications. Applications may be signed by the following means:

1. the applicant's signature on a paper application;
2. a personal identification number (PIN); or
3. a digital signature as issued by DHH (in the *Louisiana Medicaid Manual*).

B. The application may be filed by the applicant or one of the following individuals:

1. a parent;
2. the legal guardian, which is a person legally responsible for the care and management of the person or property of one considered by law to be incompetent to manage his own affairs;
3. a curator, which is any person acting under legal authority for an applicant/recipient who is determined by a court of law to be incompetent to take care of his own person or to administer his estate (an interdict); or
4. someone acting responsibly for the applicant.

C. Assistance with Application

1. The applicant may choose an individual to accompany, assist, and/or represent him/her in the application or renewal process.
2. The bureau must provide assistance if the applicant is unable to participate and has no responsible representation in the application process.

D. Grounds for Accepting/Rejecting Application. The applicant must cooperate in the process of determining eligibility by completing an application form and providing required information. The application may be rejected for non-cooperation only if the applicant, curator, parent or legal guardian is physically and mentally able to make application and provide information and either:

1. does not provide information after being notified; or
2. after being advised of the consequences, has failed to cooperate.

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 Social Services, Office of the Secretary, Bureau of Health Services Financing, LR 30:

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 Thursday, May 27, 2004 at 9:30 a.m. in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Eligibility
Filing of Applications

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no programmatic costs to the state as a result of implementation of this proposed rule. It is anticipated that $340 ($170 SGF and $170 FED) will be expended in SFY 2003-2004 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 implementation of this proposed rule will have no programmatic effect on federal revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule amends the May 20, 1996 rule pertaining to the filing and signing of applications for Medicaid. The proposed rule would authorize Medicaid application centers to file applications electronically. Implementation of this proposed rule will have no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Ben A. Bearden
Director
0404#087

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

Medical Transportation Program
Non-Emergency Ambulance Services Reimbursement

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.

The Department of Health and Hospitals, Office of the Secretary, 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. The bureau promulgated a Rule that reduced the established provider rate for non-emergency medical transportation by 20 percent (*Louisiana Register*, Volume 22, Number 2). In order to establish and document

medical necessity, Medicaid policy required that ambulance providers obtain a physician's signature on the medical transportation certification form after an ambulance trip has been completed. Based on discussions with ambulance providers, the bureau amended that policy to allow other medical professionals to sign the certification form establishing the need for ambulance transportation (*Louisiana Register*, Volume 29, Number 11). Emergency ambulance services are at times used for non-emergency purposes and the services are reimbursed by Medicaid. The bureau now proposes to terminate reimbursement for these non-emergency services that are not authorized as being medically necessary by the attending medical professional. The service will be considered a non-covered Medicaid service and the provider may bill the recipient for the service.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the family has been considered. This proposed Rule may impact the family as the Medicaid recipient will be responsible for the cost of non-emergency ambulance trips that are not determined to be medically necessary.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing terminates reimbursement for emergency ambulance services that are not authorized as being medically necessary by the attending medical professional. If the appropriate medical professional refuses to sign the Unisys 105 form stating that ambulance transportation was medically necessary, the service shall be considered a non-covered Medicaid service and the provider may bill the recipient for this service.

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 Thursday, May 27, 2004 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Medical Transportation Program Non-Emergency Ambulance Services Reimbursement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in an estimated cost avoidance to the state of $31,852 for SFY 2004-2005, $38,223 for SFY 2005-2006 and $39,369 for SFY 2006-2007. It is anticipated that $204 ($102 SGF and $102 FED) will be expended in SFY 2003-04 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 implementation of this proposed rule will reduce federal revenue collections by $80,068 for SFY 2004-2005, $96,081 for SFY 2005-2006 and $98,964 for SFY 2006-2007. It is anticipated that $102 will be expended in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule terminates reimbursement for non-emergency ambulance services that are not authorized medically necessary (approximately 8,700 services annually) by the attending medical professional. It is anticipated that implementation of this proposed rule will decrease spending on emergency medical transportation services by $111,920 for SFY 2004-2005, $134,304 for SFY 2005-2006 and $138,333 for SFY 2006-2007.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition and employment as a result of the implementation of this proposed rule.

Ben A. Bearden
Director
0404#086

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Labor
State Plumbing Board

Continuing Professional Education Programs
(LAC 46:LV.103 and Chapter 10)

The Louisiana State Plumbing Board ("board"), pursuant to R.S. 37:1366(I), which authorizes the board to establish and determine by rule minimum requirements relative to continuing professional development for the renewal or reinstatement of any license or special endorsement issued by the board, proposes to add plumbing regulations, LAC 46:LV.1001, 1003, 1005 and 1007, in accordance with the Administrative Procedure Act. The proposed new Rule notifies the public of the continuing professional education programs to be conducted by the board, effective January 1, 2006. In addition, "Gender and Meaning" which was previously §1001 has been moved to Chapter 1, §103 for topical placement, with the language remaining the same.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LV. Plumbers
Chapter 1. Introductory Information
§103. Gender and Meaning

A. Whenever any words are used in these regulations in the masculine gender, they shall also be construed to include the feminine gender in all situations where they would so apply; and whenever any words are used in the singular, they shall also be construed to include the plural in all situations where they would so apply and wherever any words are used in the plural, they shall also be construed to include the singular.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968, amended and promulgated by Department of Employment and Training, State Plumbing Board, LR 17:57 (January 1991), amended by the Department of Labor, State Plumbing Board, LR 30:

Chapter 10. Continuing Professional Education Programs

§1001. Journeyman and Master Plumbers

A. CPE Requirement

1. All persons seeking to renew a journeyman license issued by the Louisiana State Plumbing Board are required to attend and show proof of attendance at no less than four hours of a Louisiana State Plumbing Board-approved CPE class in the prior calendar year, as set out in this Section.

2. All persons seeking to renew a master plumber's license or to convert an inactive master plumber's license to an active master plumber's license must attend and show proof of attendance at no less than six hours of a Louisiana State Plumbing Board-approved CPE class in the prior calendar year, as set out in this Section.

3. A holder of an Inactive Master Plumber's license who seeks to renew said license must file an affidavit in a form provided by the Louisiana State Plumbing Board, that they have been inactive as a plumber in the previous year, and that they will remain inactive and not work as a plumber for the year for which they seek to renew their license. Upon such filing with the Louisiana State Plumbing Board, the holder of an Inactive Master Plumber's License will not be required to meet the CPE requirements set out herein.

4. A holder of an Inactive Master Plumber's License who seeks to function as a journeyman plumber is required to attend and show proof of attendance at no less than four hours of a Louisiana State Plumbing Board-approved CPE class in the prior calendar year, as set out in this Section.

B. Course Materials

1. The Louisiana State Plumbing Board will annually approve course materials to be used for the CPE required for renewal of Journeyman Plumber and Master Plumber Licenses. The course materials are the printed materials that are the basis for a substantial portion of a CPE course and which are provided to the licensees. Louisiana State Plumbing Board approval of course materials will be subject to all of the terms and conditions of this Section. The following minimum criteria will be used by the Louisiana State Plumbing Board in considering approval of course materials.

2. The course materials will provide the basis for a minimum of four classroom hours of study for journeyman plumbers and a minimum of six hours for master plumbers. Two of the hours will be in the subjects of health protection, consumer protection or environmental protection, with the two of the remaining hours covering subjects which shall include information concerning the Act, Louisiana State Plumbing Board rules, current industry practices and codes, and subjects from lists of approved subjects published by the Louisiana State Plumbing Board. Two hours of the materials for master plumbers will be on business topics approved by the Louisiana State Plumbing Board.

3. The Louisiana State Plumbing Board will periodically publish lists of approved and required subjects.

4. The course materials must be presentations of relevant issues and changes within the subject areas as they apply to the plumbing practice in the current market, public health or topics which increase or support the licensee's development of skill and competence.

5. The course materials may not advertise or promote the sale of goods, products or services.

6. The course materials must be printed and bound in perfect/standard, metal coil or ring binder form.

7. The course materials will include perforated Louisiana State Plumbing Board forms within the binding of the course materials that may be removed for use by the licensees. The forms will include CPE evaluation forms, license and endorsement examination forms and general complaint forms.

8. All course materials must have the following characteristics:

a. high quality, readable and carefully prepared written materials with correct grammar, spelling and punctuation;

b. appropriate illustrations and graphics to show concepts not easily explained in words; and

c. in depth and comprehensive presentation of subject matter which increases or supports the skills or competence of the licensees.

9. The provider of course materials must have legal ownership of or an appropriate license for the use of all copyrighted material included within the course materials. Louisiana State Plumbing Board approved course materials will contain a prominently displayed approval statement in 10 point bold type or larger containing the following language:

> "THIS CONTINUING PROFESSIONAL EDUCATION COURSE MATERIAL HAS BEEN APPROVED BY THE LOUISIANA STATE PLUMBING BOARD FOR USE IN THE (STATE YEAR) CPE YEAR. BY ITS APPROVAL OF THIS COURSE MATERIAL, THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY RESPONSIBILITY FOR THE ACCURACY OF THE CONTENTS. FURTHER, THE LOUISIANA STATE PLUMBING BOARD HAS NOT MADE ANY DETERMINATION THAT THE PARTY PUBLISHING THE COURSE MATERIALS HAS COMPLIED WITH ANY APPLICABLE COPYRIGHT AND OTHER LAWS IN PUBLISHING THE COURSE MATERIAL AND THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY LIABILITY OR RESPONSIBILITY THEREFOR. THE COURSE MATERIAL IS NOT BEING PUBLISHED BY NOR IS IT A PUBLICATION OF THE LOUISIANA STATE PLUMBING BOARD."

10. The provider of course materials will conduct instructor training in the use of course materials.

11. The provider of course materials will be required to have distribution facilities that will ensure prompt distribution of course materials, facsimile ordering and a statewide toll free telephone number for placing orders. The provider of course materials must ship any ordered material within ten business days after the receipt of the order and payment for the course materials.

12. Any individual, business or association who wishes to offer to provide course materials shall apply to the Louisiana State Plumbing Board for approval using application forms prepared by the Louisiana State Plumbing Board. In order to be approved, the application must satisfy the Louisiana State Plumbing Board as to the ability of the

individual, business or association to provide quality course materials as required in this Section and must include:

a. name and address of individual applicant;

b. names and addresses of all officers, directors, trustees or members of the governing board of any business or association applicant;

c. statement by individual applicant, and each officer, director, trustee or member of governing board as to whether he or she has ever been convicted of a felony or misdemeanor other than a minor traffic violation;

d. certificate of good standing issued by the Louisiana Secretary of State for corporate applicants;

e. maximum fees to be charged for course materials;

f. taxpayer identification number;

g. method for quarterly reporting of course provider, instructors, and licensee evaluations of course materials to the Louisiana State Plumbing Board; and an application fee to be set as provided by law.

13. The provider of course materials must sell course materials to all course providers on request, at a price not to exceed the maximum fee to be charged as stated on the provider's application.

14. The Louisiana State Plumbing Board may refuse to accept any application for approval as a provider of course materials that is not complete. The Louisiana State Plumbing Board may deny approval of an application for any of the following reasons:

a. failure to comply with the provisions of this Section;

b. inadequate coverage of the materials required to be included in course materials; or

c. unsatisfactory evaluations of the course materials by licensees or Louisiana State Plumbing Board members or staff.

15. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the refusal or disapproval.

16. A provider's authority to offer the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

17. To be approved, 20 copies of course materials, including any handouts and audio/visual aids to be used, must be submitted in complete draft form to the Louisiana State Plumbing Board's office no later than October 15 (or at least 30 days prior to the Louisiana State Plumbing Board's November meeting, whichever is earlier) for Louisiana State Plumbing Board approval at its November Louisiana State Plumbing Board meeting. At least 20 copies each of all course materials that are approved at the Louisiana State Plumbing Board's November meeting shall be provided to the Louisiana State Plumbing Board's office no later than February of the following year, at no cost to the Louisiana State Plumbing Board.

18. Upon a showing of compelling necessity, the Plumbing Board, in its discretion, may grant an exception to the requirement that material be submitted prior to the Plumbing Board's November meeting, and, pursuant to this exception, may approve material submitted at least 30 days prior to any quarterly meeting of the Plumbing Board, which otherwise meets the requirements of this Section.

19. A provider's failure to comply with this Section constitutes grounds for disciplinary action, consistent with the Louisiana Administrative Procedure Act, against the provider or for disapproval of future applications for approval as a provider of course materials.

C. Course Form and Content

1. Course providers will offer classroom instruction in the course materials used for the CPE required for renewal of journeymen and master licenses issued under the Act. Louisiana State Plumbing Board approval of course providers will be subject to all of the terms and conditions of this Section.

2. CPE courses shall be presented in one of the following formats:

a. a minimum of four classroom hours presented on one day; or

b. for master plumbers, six hours on one day; or

c. not less than two sessions of two classroom hours each presented within a 30-day period; or

d. for master plumbers, two sessions of three classroom hours each presented within a 30-day period.

3. Not less than two hours of the classroom course will be in the subjects of health protection, environmental protection or consumer protection.

4. Not less than two hours of the master plumbers' class will be on business topics approved by the Louisiana State Plumbing Board.

5. Presentations must be based primarily on the course materials and any other materials approved by the Louisiana State Plumbing Board.

6. In addition to course materials, presentations may include videos, films, slides or other appropriate types of illustrations and graphic materials related to the course materials, as approved by the Louisiana State Plumbing Board.

7. A course provider may not advertise or promote the sale of any goods, products or services between the opening and closing hours of any CPE class.

8. Each course provider shall furnish a uniquely numbered Certificate of Completion of CPE to each licensee, but only after the licensee has completed the CPE course. The Louisiana State Plumbing Board will assign the unique numbers to be used on each certificate to each course provider.

9. Each course provider shall, at its own expense and in a format approved by the Louisiana State Plumbing Board, mail, fax or electronically transmit to the Louisiana State Plumbing Board certification of each licensee's completion of CPE requirements within 30 days of completion.

10. Each course provider shall be reviewed annually by the Louisiana State Plumbing Board to ensure that classes have been provided equally across the state of Louisiana.

11. Each course provider must notify the Louisiana State Plumbing Board at least seven working days before conducting classes; the notice shall contain the time(s) and place(s) where the classes will occur.

12. Each course provider will perform self-monitoring and reporting as required by the Louisiana State Plumbing Board, including a certified roster of all persons attending the course, with the license number of each attendee included.

13. Each course provider shall permit any Louisiana State Plumbing Board member or a duly designated representative of the Louisiana State Plumbing Board to monitor any CPE class for compliance purposes.

D. Course Providers

1. Each course provider shall use only course instructors that have been approved by the Louisiana State Plumbing Board. Each course provider shall annually submit to the Louisiana State Plumbing Board's office a list of course instructors it employs and the instructors' credentials for approval.

a. Lists of course instructors to be approved for the following year must be submitted no later than October 15 or 30 days prior to the date of the Louisiana State Plumbing Board's November meeting (whichever is earlier) for approval by the Louisiana State Plumbing Board at its November meeting, unless an extension is requested at or before the August Louisiana State Plumbing Board meeting and granted by the Louisiana State Plumbing Board.

b. Prior to allowing course instructors to teach CPE, course providers must provide documentation to the Louisiana State Plumbing Board showing the instructor's qualifications to teach CPE, including but not limited to detailed information on any experience in providing instruction, assistance in providing instruction or successful completion of training for providing instruction.

c. Course instructors must comply with Subsection E of this Section. Course providers shall notify the Louisiana State Plumbing Board within 10 working days of any change of an instructor's employment status with the course provider.

2. Any individual, business or association who wishes to be a course provider shall apply to the Louisiana State Plumbing Board for approval using application forms prepared by the Louisiana State Plumbing Board. In order to be approved, the application must satisfy the Louisiana State Plumbing Board as to the ability of the individual, business or association to provide quality instruction in the course materials as required in this Section and must include:

a. name and address of the applicant;

b. names and addresses of all officers, directors, trustees or members of the governing board of any business or association applying;

c. statement by applicant, and each officer, director, trustee or member of governing board (if applicable) as to whether he or she has ever been convicted of a felony or misdemeanor other than a minor traffic violation;

d. certificate of good standing issued by the Louisiana Secretary of State for corporate applicants;

e. taxpayer identification number;

f. facsimile number, statewide toll free telephone number, Internet web site or electronic mail address;

g. fees to be charged to licensees for attending the course;

h. an example of a licensee's certificate of completion of CPE;

i. a CPE class scheduling plan for providing courses equally across the state. Course providers must, at a minimum, offer the CPE class in each of the following cities: Lafayette, New Orleans, Baton Rouge, Alexandria, Shreveport, Lake Charles and Monroe; however, the Louisiana State Plumbing Board or its director may, solely at their discretion, grant a request that the course not be offered in one or more of these locations, upon a demonstration of economic infeasibility by the course provider;

j. a method for quarterly reporting compilations of licensee evaluations of course provider and course instructors to the Louisiana State Plumbing Board;

k. identification of the course materials which will be used by the course provider; and

l. an application fee to be set as provided by law.

3. If the course provider is not the creator of the course materials and will purchase the course materials, the course provider may not charge the licensees more than the maximum cost set out by the course material provider in its application.

4. The fees charged to the licensees for attending the course will be determined by the course provider.

5. The Louisiana State Plumbing Board may refuse to accept any application for approval as a course provider that is not complete. The Louisiana State Plumbing Board may deny approval of an application for any of the following reasons:

a. failure to comply with the provisions of this Section;

b. inadequate instruction of the materials required to be included in course materials; or

c. unsatisfactory evaluations of the course provider by licensees, Louisiana State Plumbing Board members or Louisiana State Plumbing Board staff.

6. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the date of the decision.

7. A course provider's authority to offer instruction in the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

8. The Louisiana State Plumbing Board shall review course providers for quality of instruction: The Louisiana State Plumbing Board shall also investigate and take appropriate action, consistent with the Louisiana Administrative Procedure Act, up to and including revocation of authority to provide CPE, regarding complaints involving approved course providers.

9. A provider's failure to comply with this Section constitutes grounds for disciplinary action in accord with the Louisiana Administrative Procedure Act, up to and including revocation of authority to provide CPE, against the provider or for denial of future applications for approval as a course provider.

E. Course Instructors

1. The Louisiana State Plumbing Board will annually approve course instructors to provide the classroom instruction in the course materials used for the CPE required for renewal of Journeyman Plumber and Master Plumber Licenses. Louisiana State Plumbing Board approval of course instructors will be subject to all of the terms and conditions of this Section. An individual who wishes to be approved by the Louisiana State Plumbing Board as a course instructor must apply to the Louisiana State Plumbing Board using an application form approved by the Louisiana State Plumbing Board. The following minimum criteria will be used by the Louisiana State Plumbing Board in considering approval of course instructors:

a. all course instructors for master plumbers must hold a Louisiana state master plumber's license, and those for journeymen most hold a master's or journeyman's license; and

b. demonstrate an ability to train others, including but not limited to providing a description of their previous training experience; and

c. must be employed by an approved course provider.

2. A course instructor may use, under their live supervision, a non-licensed, supplemental lecturer to present additional material as required. However, the minimum four hours required by this Section for journeymen and six hours for masters must be taught by an approved course instructor. A course instructor must identify in their application any supplemental lecturer they intend to use, and the subject matter the supplemental lecturer will discuss.

3. Course instructors and supplemental lecturers may not advertise or promote the sale of goods, products, or services between the opening and closing hours of any CPE class.

4. As a course instructor and licensee of the Louisiana State Plumbing Board, a course instructor must:

a. be well versed in and knowledgeable of the course materials;

b. maintain an orderly and professional classroom environment; and

c. coordinate with the course provider to develop an appropriate method for handling disorderly and disruptive students. A course instructor shall report to the course provider and the Louisiana State Plumbing Board any non-responsive or disruptive student who attends a CPE course. The Louisiana State Plumbing Board may deny CPE credit to any such student and require, at the student's expense, successful completion of an additional CPE course to receive credit.

5. The Louisiana State Plumbing Board shall review course instructors for quality of instruction. The Louisiana State Plumbing Board shall also respond to complaints regarding course instructors.

6. A course instructor's failure to comply with this Section constitutes grounds for disciplinary action against the Instructor or for disapproval of future applications for approval as a course instructor, in accord with the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(I).

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:

§1003. Water Supply Protection Specialists

A. CPE Requirement

1. In addition to the yearly renewal of their endorsement, every three years all persons holding a water supply protection specialist endorsement issued by the Louisiana State Plumbing Board are required to show proof of attendance at no less than 6 hours of a Louisiana State Plumbing Board-approved CPE training class in the prior three calendar years, as set out in this Section.

B. Course Materials

1. The Louisiana State Plumbing Board will annually approve course materials to be used for the CPE required for renewal of water supply protection specialist endorsements. The course materials are the printed materials that are the basis for a substantial portion of a CPE course and which are provided to the licensees. Louisiana State Plumbing Board approval of course materials will be subject to all of the terms and conditions of this Section. The following minimum criteria will be used by the Louisiana State Plumbing Board in considering approval of course materials.

2. The course materials will provide the basis for a minimum of six classroom hours of study related to water supply protection and back flow prevention.

3. The Louisiana State Plumbing Board will periodically publish lists of approved and required subjects.

4. The course materials must be presentations of relevant issues and changes within the subject areas as they apply to the practice of water supply protection and back flow protection in the current market, public health or topics which increase or support the licensee's development of skill and competence, including but not limited to the current plumbing and sanitary codes.

5. The course materials may not advertise or promote the sale of goods, products or services.

6. The course materials must be printed and bound in perfect/standard, metal coil or ring binder form.

7. The course materials will include perforated Louisiana State Plumbing Board forms within the binding of the course materials that may be removed for use by the licensees. The forms will include CPE evaluation forms, license and endorsement examination forms and general complaint forms.

8. All course materials must have the following characteristics:

a. high quality, readable and carefully prepared written materials with correct grammar, spelling and punctuation;

b. appropriate illustrations and graphics to show concepts not easily explained in words; and

c. in depth and comprehensive presentation of subject matter which increases or supports the skills or competence of the licensees.

9. The provider of course materials must have legal ownership of or an appropriate license for the use of all copyrighted material included within the course materials. Louisiana State Plumbing Board approved course materials will contain a prominently displayed approval statement in 10 point bold type or larger containing the following language:

"THIS CONTINUING PROFESSIONAL EDUCATION COURSE MATERIAL HAS BEEN APPROVED BY THE LOUISIANA STATE PLUMBING BOARD FOR USE IN THE (state year) CPE YEAR. BY ITS APPROVAL OF THIS COURSE MATERIAL, THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY RESPONSIBILITY FOR THE ACCURACY OF THE CONTENTS. FURTHER, THE LOUISIANA STATE PLUMBING BOARD HAS NOT MADE ANY DETERMINATION THAT THE PARTY PUBLISHING THE COURSE MATERIALS HAS COMPLIED WITH ANY APPLICABLE COPYRIGHT AND OTHER LAWS IN PUBLISHING THE COURSE MATERIAL AND THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY LIABILITY OR RESPONSIBILITY THEREFOR. THE COURSE MATERIAL IS NOT BEING PUBLISHED BY NOR IS IT A PUBLICATION OF THE LOUISIANA STATE PLUMBING BOARD."

10. The provider of course materials will conduct instructor training in the use of course materials.

11. The provider of course materials will be required to have distribution facilities that will ensure prompt distribution of course materials, facsimile ordering and a statewide toll free telephone number for placing orders. The provider of course materials must ship any ordered material within ten business days after the receipt of the order and payment for the course materials.

12. Any individual, business or association who wishes to offer to provide course materials shall apply to the Louisiana State Plumbing Board for approval using application forms prepared by the Louisiana State Plumbing Board. In order to be approved, the application must satisfy the Louisiana State Plumbing Board as to the ability of the individual, business or association to provide quality course materials as required in this Section and must include:

a. name and address of individual applicant;

b. names and addresses of all officers, directors, trustees or members of the governing board of any business or association applicant;

c. statement by individual applicant, and each officer, director, trustee or member of governing board as to whether he or she has ever been convicted of a felony or misdemeanor other than a minor traffic violation;

d. certificate of good standing issued by the Louisiana Secretary of State for corporate applicants;

e. maximum fees to be charged for course materials;

f. taxpayer identification number;

g. method for quarterly reporting of course provider, Instructors, and licensee evaluations of course materials to the Louisiana State Plumbing Board; and

h. an application fee to be set as provided by law.

13. The provider of course materials must sell course materials to all course providers on request, at a price not to exceed the maximum fee to be charged as stated on the provider's application.

14. The Louisiana State Plumbing Board may refuse to accept any application for approval as a provider of course materials that is not complete. The Louisiana State Plumbing Board may deny approval of an application for any of the following reasons:

a. failure to comply with the provisions of this Section;

b. inadequate coverage of the materials required to be included in course materials; or

c. unsatisfactory evaluations of the course materials by licensees or Louisiana State Plumbing Board members or staff.

15. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the refusal or disapproval.

16. A provider's authority to offer the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

17. To be approved 20 copies of course materials, including any hand outs and audio visual aids to be used, must be submitted in complete draft form to the Louisiana State Plumbing Board's office no later than October 15 (or at least 30 days prior to the Louisiana State Plumbing Board's November meeting, whichever is earlier), for Louisiana State Plumbing Board approval at its November Louisiana State Plumbing Board meeting. At least 20 copies each of all course materials that are approved at the Louisiana State Plumbing Board's November meeting shall be provided to the Louisiana State Plumbing Board's office no later than February of the following year, at no cost to the Louisiana State Plumbing Board.

18. Upon a showing of compelling necessity, the Plumbing Board, in its discretion, may grant an exception to the requirement that material be submitted prior to the Plumbing Board's November meeting, and pursuant to this exception, may approve material submitted at least 30 days prior to any quarterly meeting of the Plumbing Board, which otherwise meets the requirements of this Section.

19. A provider's failure to comply with this Section constitutes grounds for disciplinary action, consistent with the Louisiana Administrative Procedure Act, against the provider or for disapproval of future applications for approval as a provider of course materials.

C. Course Form and Content

1. Course providers will offer classroom instruction in the course materials used for the CPE required for renewal of water supply protection specialist endorsements issued under the Act. Louisiana State Plumbing Board approval of course providers will be subject to all of the terms and conditions of this Section.

2. CPE courses shall be presented in one of the following formats:

a. a minimum of six classroom hours presented on one day; or

b. not less than two sessions of three classroom hours each presented within a 30-day period.

3. Not less than two hours of the classroom course will be in the subjects of health protection, environmental protection or consumer protection.

4. Presentations must be based primarily on the course materials and any other materials approved by the Louisiana State Plumbing Board.

5. In addition to course materials, presentations may include videos, films, slides or other appropriate types of illustrations and graphic materials related to the course materials, as approved by the Louisiana State Plumbing Board.

6. A course provider may not advertise or promote the sale of any goods, products or services between the opening and closing hours of any CPE class.

7. Each course provider shall furnish a uniquely numbered certificate of completion of CPE to each licensee, but only after the licensee has completed the CPE course. The Louisiana State Plumbing Board will assign the unique numbers to be used on each certificate to each course provider.

8. Each course provider shall, at its own expense and in a format approved by the Louisiana State Plumbing Board, mail, fax or electronically transmit to the Louisiana State Plumbing Board certification of each licensee's completion of CPE requirements within 30 days of completion.

9. Each course provider shall be reviewed annually by the Louisiana State Plumbing Board to ensure that classes have been provided equally across the state of Louisiana.

10. Each course provider must notify the Louisiana State Plumbing Board at least seven working days before

conducting classes; the notice shall contain the time(s) and place(s) where the classes will occur.

11. Each course provider will perform self-monitoring and reporting as required by the Louisiana State Plumbing Board, including a certified roster of all persons attending the course, with the license number of each attendee included.

12. Each course provider shall permit any Louisiana State Plumbing Board member or a duly designated representative of the Louisiana State Plumbing Board to monitor any CPE class for compliance purposes.

D. Course Providers

1. Each course provider shall use only course instructors that have been approved by the Louisiana State Plumbing Board. Each course provider shall annually submit to the Louisiana State Plumbing Board's office a list of course instructors it employs and the instructors' credentials for approval.

a. Lists of course instructors to be approved for the following year must be submitted no later than October 15 or 30 days prior to the date of the Louisiana State Plumbing Board's November meeting, (whichever is earlier), for approval by the Louisiana State Plumbing Board at its November meeting, unless an extension is requested at or before the August Louisiana State Plumbing Board meeting and granted by the Louisiana State Plumbing Board.

b. Prior to allowing course instructors to teach CPE, course providers must provide documentation to the Louisiana State Plumbing Board showing the instructor's qualifications to teach CPE, including but not limited to detailed information on any experience in providing instruction, assistance in providing instruction or successful completion of training for providing instruction.

c. Course instructors must comply with Subsection E of this Section. Course providers shall notify the Louisiana State Plumbing Board within 10 working days of any change of an instructor's employment status with the course provider.

2. Any individual, business or association who wishes to be a course provider shall apply to the Louisiana State Plumbing Board for approval using application forms prepared by the Louisiana State Plumbing Board. In order to be approved, the application must satisfy the Louisiana State Plumbing Board as to the ability of the individual, business or association to provide quality instruction in the course materials as required in this Section and must include:

a. name and address of the applicant;

b. names and addresses of all officers, directors, trustees or members of the governing board of any business or association applying;

c. statement by applicant, and each officer, director, trustee or member of governing board (if applicable) as to whether he or she has ever been convicted of a felony or misdemeanor other than a minor traffic violation;

d. certificate of good standing issued by the Louisiana Secretary of State for corporate applicants;

e. taxpayer identification number;

f. facsimile number, statewide toll free telephone number, Internet web site or electronic mail address;

g. fees to be charged to licensees for attending the course;

h. an example of a licensee's certificate of completion of CPE;

i. a CPE class scheduling plan for providing courses equally across the state. course providers must, at a minimum offer the CPE class in each of the following cities: Lafayette, New Orleans, Baton Rouge, Alexandria, Shreveport, Lake Charles and Monroe; however, the Louisiana State Plumbing Board or its director may, solely at their discretion grant a request that the course not be offered in one or more of these locations, upon a demonstration of economic infeasibility by the course provider;

j. a method for quarterly reporting compilations of licensee evaluations of course provider and course instructors to the Louisiana State Plumbing Board;

k. identification of the course materials which will be used by the course provider; and an application fee to be set as provided by law.

3. If the course provider is not the creator of the course materials and will purchase the course materials, the course provider may not charge the licensees more than the maximum cost set out by the course material provider in its application.

4. The fees charged to the licensees for attending the course will be determined by the course provider.

5. The Louisiana State Plumbing Board may refuse to accept any application for approval as a course provider that is not complete. The Louisiana State Plumbing Board may deny approval of an application for any of the following reasons:

a. failure to comply with the provisions of this Section;

b. inadequate instruction of the materials required to be included in course materials; or

c. unsatisfactory evaluations of the course provider by licensees, Louisiana State Plumbing Board members or Louisiana State Plumbing Board staff.

6. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the date of the decision.

7. A course provider's authority to offer instruction in the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

8. The Louisiana State Plumbing Board shall review course providers for quality of instruction: The Louisiana State Plumbing Board shall also investigate and take appropriate action, consistent with the Louisiana Administrative Procedure Act, up to and including revocation of authority to provide CPE, regarding complaints involving approved course providers.

9. A provider's failure to comply with this Section constitutes grounds for disciplinary action in accord with the Louisiana Administrative Procedure Act, up to and including revocation of authority to provide CPE, against the provider or for denial of future applications for approval as a course provider.

E. Course Instructors

1. The Louisiana State Plumbing Board will annually approve course instructors to provide the classroom instruction in the course materials used for the CPE required for renewal of water supply protection specialist endorsements. Louisiana State Plumbing Board approval of

course instructors will be subject to all of the terms and conditions of this Section. An individual who wishes to be approved by the Louisiana State Plumbing Board as a course instructor must apply to the Louisiana State Plumbing Board using an application form approved by the Louisiana State Plumbing Board. The following minimum criteria will be used by the Louisiana State Plumbing Board in considering approval of course instructors:

a. all course instructors must hold a Louisiana State water supply protection specialist endorsement;

b. demonstrate an ability to train others, including but not limited to providing a description of their previous training experience; and

c. must be employed by an approved course provider.

2. A course instructor may use, under their live supervision, a non-licensed, supplemental lecturer to present additional material as required. However, the minimum six hours required by this Section must be taught by an approved course instructor. A course instructor must identify in their application any supplemental lecturer they intend to use, and the subject matter the supplemental lecturer will discuss.

3. A course instructors and supplemental lecturers may not advertise or promote the sale of goods, products, or services between the opening and closing hours of any CPE class.

4. As a course instructor and licensee of the Louisiana State Plumbing Board, a course instructor must:

a. be well versed in and knowledgeable of the course materials;

b. maintain an orderly and professional classroom environment; and

c. coordinate with the course provider to develop an appropriate method for handling disorderly and disruptive students. A course instructor shall report to the course provider and the Louisiana State Plumbing Board, any non-responsive or disruptive student who attends a CPE course. The Louisiana State Plumbing Board may deny CPE credit to any such student and require, at the student's expense, successful completion of an additional CPE course to receive credit.

5. The Louisiana State Plumbing Board shall review course instructors for quality of instruction. The Louisiana State Plumbing Board shall also respond to complaints regarding course instructors.

6. A course instructor's failure to comply with this Section constitutes grounds for disciplinary action against the Instructor or for disapproval of future applications for approval as a course instructor, in accord with the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(I).

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:

§1005. Medical Gas Piping Installers and Medical Gas Verifiers

A. CPE Requirement

1. In addition to the yearly renewal of their endorsement, every three years all persons seeking to renew a medical gas piping installer or medical gas verifier license issued by the Louisiana State Plumbing Board are required to show proof of attendance at no less than four hours of a Louisiana State Plumbing Board-approved CPE class in the prior three calendar years, as set out in this Section.

B. Course Materials

1. The Louisiana State Plumbing Board will annually approve course materials to be used for the CPE required for renewal of a medical gas piping installer license. The course materials are the printed materials that are the basis for a substantial portion of a CPE course and which are provided to the licensees. Louisiana State Plumbing Board approval of course materials will be subject to all of the terms and conditions of this Section. The following minimum criteria will be used by the Louisiana State Plumbing Board in considering approval of course materials.

2. The course materials will provide the basis for a minimum of four classroom hours of study related to medical gas piping installation, including but not limited to the application of NFPA 99C to medical gas piping; industry terminology, definitions and standards; performance criteria and objectives; medical gas hazards; basic medical gas system components; storage and manifold requirements; requirements for gas supply systems; bulk systems; medical air compressors; color coding and labeling requirements; scope of piping; valves, medical gas rails; gas piping; brazing procedures and installation requirements; and alarm requirements.

3. The Louisiana State Plumbing Board will periodically publish lists of approved and required subjects.

4. The course materials must be presentations of relevant issues and changes within the subject areas as they apply to the practice of medical gas piping installation in the current market, public health or topics which increase or support the licensee's development of skill and competence

5. The course materials may not advertise or promote the sale of goods, products or services.

6. The course materials must be printed and bound in perfect/standard, metal coil or ring binder form.

7. The course materials will include perforated Louisiana State Plumbing Board forms within the binding of the course materials that may be removed for use by the licensees. The forms will include CPE evaluation forms, license and endorsement examination forms and general complaint forms.

8. All course materials must have the following characteristics:

a. high quality, readable and carefully prepared written materials with correct grammar, spelling and punctuation;

b. appropriate illustrations and graphics to show concepts not easily explained in words; and

c. in depth and comprehensive presentation of subject matter which increases or supports the skills or competence of the licensees.

9. The provider of course materials must have legal ownership of or an appropriate license for the use of all copyrighted material included within the course materials. Louisiana State Plumbing Board approved course materials will contain a prominently displayed approval statement in 10 point bold type or larger containing the following language:

"THIS CONTINUING PROFESSIONAL EDUCATION COURSE MATERIAL HAS BEEN APPROVED BY THE LOUISIANA STATE PLUMBING BOARD FOR USE IN THE (state year) CPE YEAR. BY ITS APPROVAL OF THIS

COURSE MATERIAL, THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY RESPONSIBILITY FOR THE ACCURACY OF THE CONTENTS. FURTHER, THE LOUISIANA STATE PLUMBING BOARD HAS NOT MADE ANY DETERMINATION THAT THE PARTY PUBLISHING THE COURSE MATERIALS HAS COMPLIED WITH ANY APPLICABLE COPYRIGHT AND OTHER LAWS IN PUBLISHING THE COURSE MATERIAL AND THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY LIABILITY OR RESPONSIBILITY THEREFOR. THE COURSE MATERIAL IS NOT BEING PUBLISHED BY NOR IS IT A PUBLICATION OF THE LOUISIANA STATE PLUMBING BOARD."

10. The provider of course materials will conduct instructor training in the use of course materials.

11. The provider of course materials will be required to have distribution facilities that will ensure prompt distribution of course materials, facsimile ordering and a statewide toll free telephone number for placing orders. The provider of course materials must ship any ordered material within ten business days after the receipt of the order and payment for the course materials.

12. Any individual, business or association who wishes to offer to provide course materials shall apply to the Louisiana State Plumbing Board for approval using application forms prepared by the Louisiana State Plumbing Board. In order to be approved, the application must satisfy the Louisiana State Plumbing Board as to the ability of the individual, business or association to provide quality course materials as required in this Section and must include:

a. name and address of individual applicant;

b. names and addresses of all officers, directors, trustees or members of the governing board of any business or association applicant;

c. statement by individual applicant, and each officer, director, trustee or member of governing board as to whether he or she has ever been convicted of a felony or misdemeanor other than a minor traffic violation;

d. certificate of good standing issued by the Louisiana Secretary of State for corporate applicants;

e. maximum fees to be charged for course materials;

f. taxpayer identification number;

g. method for quarterly reporting of course provider, instructors, and licensee evaluations of course materials to the Louisiana State Plumbing Board; and

h. an application fee to be set as provided by law.

13. The provider of course materials must sell course materials to all course providers on request, at a price not to exceed the maximum fee to be charged as stated on the provider's application.

14. The Louisiana State Plumbing Board may refuse to accept any application for approval as a provider of course materials that is not complete. The Louisiana State Plumbing Board may deny approval of an application for any of the following reasons:

a. failure to comply with the provisions of this Section;

b. inadequate coverage of the materials required to be included in course materials; or

c. unsatisfactory evaluations of the course materials by licensees or Louisiana State Plumbing Board members or staff.

15. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the refusal or disapproval.

16. A provider's authority to offer the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

17. To be approved 20 copies of course materials, including any hand outs and audio visual aids to be used, must be submitted in complete draft form to the Louisiana State Plumbing Board's office no later than October15 (or at least 30 days prior to the Louisiana State Plumbing Board's November meeting, whichever is earlier), for Louisiana State Plumbing Board approval at its November Louisiana State Plumbing Board meeting. At least 20 copies each of all course materials that are approved at the Louisiana State Plumbing Board's November meeting shall be provided to the Louisiana State Plumbing Board's office no later than February of the following year, at no cost to the Louisiana State Plumbing Board.

18. Upon a showing of compelling necessity, the Plumbing Board, in its discretion, may grant an exception to the requirement that material be submitted prior to the Plumbing Board's November meeting, and pursuant to this exception, may approve material submitted at least 30 days prior to any quarterly meeting of the Plumbing Board, which otherwise meets the requirements of this Section.

19. A provider's failure to comply with this Section constitutes grounds for disciplinary action, consistent with the Louisiana Administrative Procedure Act, against the provider or for disapproval of future applications for approval as a provider of course materials.

C. Course Form and Content

1. Course providers will offer classroom instruction in the course materials used for the CPE required for renewal of a medical gas piping installer or medical gas verifier license issued under the Act. Louisiana State Plumbing Board approval of course providers will be subject to all of the terms and conditions of this Section.

2. CPE courses shall be presented in one of the following formats:

a. a minimum of two classroom hours presented on one day; or

b. not less than two sessions of two classroom hours each presented within a 30-day period.

3. Not less than two hours of the classroom course will be in the subjects of health protection, environmental protection or consumer protection.

4. Presentations must be based primarily on the course materials and any other materials approved by the Louisiana State Plumbing Board.

5. In addition to course materials, presentations may include videos, films, slides or other appropriate types of illustrations and graphic materials related to the course materials, as approved by the Louisiana State Plumbing Board.

6. A course provider may not advertise or promote the sale of any goods, products or services between the opening and closing hours of any CPE class.

7. Each course provider shall furnish a uniquely numbered Certificate of Completion of CPE to each

licensee, but only after the licensee has completed the CPE course. The Louisiana State Plumbing Board will assign the unique numbers to be used on each certificate to each course provider.

8. Each course provider shall, at its own expense and in a format approved by the Louisiana State Plumbing Board, mail, fax or electronically transmit to the Louisiana State Plumbing Board certification of each licensee's completion of CPE requirements within 30 days of completion.

9. Each course provider shall be reviewed annually by the Louisiana State Plumbing Board to ensure that classes have been provided equally across the state of Louisiana.

10. Each course provider must notify the Louisiana State Plumbing Board at least seven working days before conducting classes; the notice shall contain the time(s) and place(s) where the classes will occur.

11. Each course provider will perform self-monitoring and reporting as required by the Louisiana State Plumbing Board, including a certified roster of all persons attending the course, with the license number of each attendee included.

12. Each course provider shall permit any Louisiana State Plumbing Board member or a duly designated representative of the Louisiana State Plumbing Board to monitor any CPE class for compliance purposes.

D. Course Providers

1. Each course provider shall use only course instructors that have been approved by the Louisiana State Plumbing Board. Each course provider shall annually submit to the Louisiana State Plumbing Board's office a list of course instructors it employs and the instructors' credentials for approval.

a. Lists of course instructors to be approved for the following year must be submitted no later than October 15 or 30 days prior to the date of the Louisiana State Plumbing Board's November meeting, (whichever is earlier), for approval by the Louisiana State Plumbing Board at its November meeting, unless an extension is requested at or before the August Louisiana State Plumbing Board meeting and granted by the Louisiana State Plumbing Board.

b. Prior to allowing course instructors to teach CPE, course providers must provide documentation to the Louisiana State Plumbing Board showing the instructor's qualifications to teach CPE, including but not limited to detailed information on any experience in providing instruction, assistance in providing instruction or successful completion of training for providing instruction.

c. Course instructors must comply with Subsection E of this Section. course providers shall notify the Louisiana State Plumbing Board within 10 working days of any change of an instructor's employment status with the course provider.

2. Any individual, business or association who wishes to be a course provider shall apply to the Louisiana State Plumbing Board for approval using application forms prepared by the Louisiana State Plumbing Board. In order to be approved, the application must satisfy the Louisiana State Plumbing Board as to the ability of the individual, business or association to provide quality instruction in the course materials as required in this Section and must include:

a. name and address of the applicant;

b. names and addresses of all officers, directors, trustees or members of the governing board of any business or association applying;

c. statement by applicant, and each officer, director, trustee or member of governing board (if applicable) as to whether he or she has ever been convicted of a felony or misdemeanor other than a minor traffic violation;

d. certificate of good standing issued by the Louisiana Secretary of State for corporate applicants;

e. taxpayer identification number;

f. facsimile number, statewide toll free telephone number, Internet web site or electronic mail address;

g. fees to be charged to licensees for attending the course;

h. an example of a licensee's Certificate of Completion of CPE;

i. a CPE class scheduling plan for providing courses equally across the state. course providers must, at a minimum, offer the CPE class in each of the following cities: Lafayette, New Orleans, Baton Rouge, Alexandria, Shreveport, Lake Charles and Monroe; however, the Louisiana State Plumbing Board or its director may, solely at their discretion grant a request that the course not be offered in one or more of these locations, upon a demonstration of economic infeasibility by the course provider;

j. a method for quarterly reporting compilations of licensee evaluations of course provider and course instructors to the Louisiana State Plumbing Board;

k. identification of the course materials which will be used by the course provider; and

l. an application fee to be set as provided by law.

3. If the course provider is not the creator of the course materials and will purchase the course materials, the course provider may not charge the licensees more than the maximum cost set out by the course material provider in its application.

4. The fees charged to the licensees for attending the course will be determined by the course provider.

5. The Louisiana State Plumbing Board may refuse to accept any application for approval as a course provider that is not complete. The Louisiana State Plumbing Board may deny approval of an application for any of the following reasons:

a. failure to comply with the provisions of this Section;

b. inadequate instruction of the materials required to be included in course materials; or

c. unsatisfactory evaluations of the course provider by licensees, Louisiana State Plumbing Board members or Louisiana State Plumbing Board staff.

6. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the date of the decision.

7. A course provider's authority to offer instruction in the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

8. The Louisiana State Plumbing Board shall review course providers for quality of instruction: The Louisiana State Plumbing Board shall also investigate and take appropriate action, consistent with the Louisiana Administrative Procedure Act, up to and including

revocation of authority to provide CPE, regarding complaints involving approved course providers.

9. A provider's failure to comply with this Section constitutes grounds for disciplinary action in accord with the Louisiana Administrative Procedure Act, up to and including revocation of authority to provide CPE, against the provider or for denial of future applications for approval as a course provider.

E. Course Instructors

1. The Louisiana State Plumbing Board will annually approve course instructors to provide the classroom instruction in the course materials used for the CPE required for renewal of a medical gas piping installer license. Louisiana State Plumbing Board approval of course instructors will be subject to all of the terms and conditions of this Section. An individual who wishes to be approved by the Louisiana State Plumbing Board as a course instructor must apply to the Louisiana State Plumbing Board using an application form approved by the Louisiana State Plumbing Board. The following minimum criteria will be used by the Louisiana State Plumbing Board in considering approval of course instructors:

a. all course instructors must hold a Louisiana state medical gas piping installer's license;

b. demonstrate an ability to train others, including but not limited to providing a description of their previous training experience; and

c. must be employed by an approved course provider.

2. A course instructor may use, under their live supervision, a non-licensed, supplemental lecturer to present additional material as required. However, the minimum two hours required by this Section must be taught by an approved course instructor. A course instructor must identify in their application any supplemental lecturer they intend to use, and the subject matter the supplemental lecturer will discuss.

3. A course instructors and supplemental lecturers may not advertise or promote the sale of goods, products, or services between the opening and closing hours of any CPE class.

4. As a course instructor and licensee of the Louisiana State Plumbing Board, a course instructor must:

a. be well versed in and knowledgeable of the course materials;

b. maintain an orderly and professional classroom environment; and

c. coordinate with the course provider to develop an appropriate method for handling disorderly and disruptive students. A course instructor shall report to the course provider and the Louisiana State Plumbing Board, any non-responsive or disruptive student who attends a CPE course. The Louisiana State Plumbing Board may deny CPE credit to any such student and require, at the student's expense, successful completion of an additional CPE course to receive credit.

5. The Louisiana State Plumbing Board shall review course instructors for quality of instruction. The Louisiana State Plumbing Board shall also respond to complaints regarding course instructors.

6. A course instructor's failure to comply with this Section constitutes grounds for disciplinary action against the Instructor or for disapproval of future applications for approval as a course instructor, in accord with the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(I).

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:

§1007. Effective Date

A. The provisions of this Section shall become effective on January 1, 2006, subject to continuance of this date by the Louisiana State Plumbing Board, as noticed in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(I).

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed Rule to Don Traylor, Executive Director, 2714 Canal Street, Suite 512, New Orleans, LA, no later than 5 p.m., May 20, 2004.

Don Traylor
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Continuing Professional Education Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The board estimates implementation cost of $21,627 which will be required for the hire of a new employee to handle the substantial work of processing course material and course provider applications, and also to track licensee compliance. This new position will be funded in part from the approximately $2,400 in additional application fees expected to be received yearly. (See Paragraph II below.) In addition, a proposed Act proposing small increases to the other administrative charges assessed by the board for license applications and examinations and license renewal and revival fees is expected to cover the remaining amounts required.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The board will realize approximately $2,400 in additional application fees for the providers of continuing professional education courses and course materials for journeyman and master plumbers, water supply protection specialists, medical gas piping installers and medical gas verifiers. The application fee for these providers is $200 annually.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated costs for each of the following groups arise from an estimate based on a review of neighboring states' costs, of $12.50 for each course hour. Applying the required number of course hours for each of the following categories results in the following costs: Journeymen plumbers will be required to pay approximately $50 per year for 4 hours of a continuing professional education class; master plumbers will be required to pay approximately $75 per year for a 6 hour long professional education course; water supply protection specialists will required to pay approximately $75 every 3 years for 6 hours of continuing professional education classes; and finally, medical gas piping installers and verifiers will be

required to pay approximately $50 every 3 years for 4 hours of continuing professional education class.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The state plumbing board does not believe there will be any impact on competition and employment for the implementation and application of the proposed regulations. The state plumbing board does not anticipate that the minimal cost required by this rule change will deter those licensed under the State Plumbing Board from maintaining their licensed status.

Don Traylor	H. Gordon Monk
Executive Director	Staff Director
0404#057	Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services
Office of Community Services

Safe Haven Relinquishments (LAC 67:V.1505)

The Department of Social Services, Office of Community Services, proposes to amend the Rule entitled "Relinquishment of Newborns" for the implementation of the provisions of Title XI of the Louisiana Children's Code. This Rule is mandated by Article 1160 of the Louisiana Children's Code.

Title 67
SOCIAL SERVICES
Part V. Community Services
Subpart 3. Child Protective Services
Chapter 15. Conducting Investigations in Families
§1505. Safe Haven Relinquishments

A. The Department of Social Services, Office of Community Services, establishes procedures for implementation of Title XI, Safe Haven Relinquishments, Chapter 13, Safe Haven Relinquishment, of the Louisiana Children's Code, as a collaborative effort with community agencies.

1. Prevent Child Abuse Louisiana will provide a toll free line available for parents who have relinquished a child and want to contact the Office of Community Services as well as for the public to inquire about Safe Haven Relinquishment.

2. The Office of Community Services, the Department of Health and Hospitals, and community agencies will collaborate to identify facilities meeting the legal definition of a designated emergency care facility, develop and distribute the written notification to such facilities regarding the provisions of the statute, develop and distribute written information and training materials for facilities to use for the instruction of their staff designated to receive relinquished children and interview parents, develop and distribute information materials to use to increase public awareness regarding Safe Haven Relinquishments, and develop and distribute the notification to hospitals of the requirements of the medical evaluation and testing of a relinquished infant.

3. The Office of Community Services will work with community agencies to develop and distribute the card for designated emergency care facilities to give to relinquishing parents as required by Article 1152.

B. The initial agency response to notification of a safe haven relinquishment will be within the Child Protection Investigation Program.

1. A report that a newborn has been relinquished at a designated emergency care facility will be accepted as a report of child abuse/neglect and immediately assigned to a Child Protection Investigation worker. The worker will respond to secure the safety of the child and obtain immediate medical care if the child is at a location other than a medical facility able to provide the child with immediate medical care, unless medical care has already been secured by the emergency care facility.

2. The worker will contact the appropriate court with juvenile jurisdiction and request an instanter order placing the child in the custody of the Department of Social Services as a child in need of care.

3. The worker will contact local law enforcement agencies to request their assistance to determine if the relinquished child may have been reported missing. The agency will also contact the national registry for missing and exploited children to determine if the child has been reported missing to that registry.

C. Any relinquishing or non-relinquishing parent contacting the Office of Community Services will be asked to voluntarily provide information as well as be informed of their rights as per Article 1152.

D. Once the infant has received the required medical examination and testing and any other necessary medical care, and has been discharged from the medical facility providing emergency and/or other medical care, Office of Community Services will place the child in the foster/adoptive home that can best provide for his needs. Efforts for the continuance of custody as a child in need of care and the procedure for a termination of parental rights will begin immediately and proceed in accordance with the provisions of Titles VI, Child in Need of Care, and XI, Safe Haven Relinquishments. The child will receive services through the Office of Community Services Foster Care and Adoption Programs until the parental rights are terminated and an adoption is finalized or the mother and/or father establish parental rights.

AUTHORITY NOTE: Promulgated in accordance with Article 1705 of the Louisiana Children's Code, Title XVII, Relinquishment of Newborns and Title XI, Safe Haven Relinquishments.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 26:2826 (December 2000), amended LR 30:

Family Impact Statement

1. The Effect on the Stability of the Family. The safe haven rule provides a mechanism by which a parent(s) of a newborn(s), who wishes to anonymously relinquish parental rights without risk of prosecution, may safely and anonymously relinquish such an infant. The intent of the safe haven procedure is to allow relinquished children to become part of a family through adoption.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. Enables an adoptive family to have the authority and right to educate and supervise their child according to their wishes.

3. The Effect on the Functioning of the Family. By providing a safe haven for a baby that would otherwise be

unsafely abandoned, the child is afforded the opportunity to be part of an adoptive family and an adoptive family has an opportunity to build a family through adoption.

4. The Effect on Family Earnings and Family Budget. The adoption of an abandoned infant will increase a family's expenses for the usual cost of child rearing.

5. The Effect on the Behavior and Personal Responsibility of Children. An abandoned infant can benefit greatly from adoption by a loving family, therefore, enabling the child to develop positive behaviors as well as personal confidence and responsibility.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Local government already has in place emergency care facilities that can provide a place for parents to bring an infant for relinquishment. Additionally, OCS currently intervenes when a child is abandoned and can provide services to the infant, relinquishing parents, and adoptive family within existing programs and services.

Written comments should be received on or before May 20, 2004, and should be addressed to the Assistant Secretary, Office of Community Services, P. O. Box 3318, Baton Rouge, LA 70821.

Ann S. Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Safe Haven Relinquishments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost in FY 2003/2004 will be $5,000 to print manual materials, training materials for designated emergency care facilities, cards for designated emergency care facilities to give to relinquishing parents, and to distribute materials to designated emergency care facilities. The cost in FY 2004/2005 and FY 2005/2006 will be for continued efforts with notification and distribution of materials to designated emergency care facilities. It is estimated that the fiscal impact per child entering foster care will be $9,962 annually. Based on the experience with the previous Louisiana safe haven relinquishment statute and of other states with similar statutes, it is not anticipated that this provision will significantly impact the Louisiana foster care population and, therefore, the estimate is that one child may enter care annually at the cost of $9,962. The costs will be funded with $4,890 in State General Funds and $10,072 in Federal Social Services Block Grant funds. These funds are included within the agency budget.

There will be no savings as a result of the revision to agency policy and implementation of the statute's requirements to develop and distribute the card and training materials or with the cost of provision of services to a relinquished infant.

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 costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Carmen D. Weisner
Deputy Assistant Secretary
0404#079

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services
Office of Family Support

CCAP? Provider Payment Increase
(LAC 67.III.5102, 5107, and 5109)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 12, Child Care Assistance Program, pursuant to the authority granted to the department by the Child Care and Development Fund (CCDF).

The Office of Family Support subsidizes a portion of child care expenses incurred by some low-income families to allow them to participate in training programs, attend school, or maintain employment. Although federal regulations do not mandate that state payment rates for child care services fall within the 75th percentile of the average payment rates for the state's child care providers, this level is encouraged by the Administration for Children and Families. A 2003 Child Care Market Rate Survey concluded that Louisiana's payment rates fall below the 75th percentile. In an effort to reach this desired level of payment, the agency is proposing to increase the State Maximum Rate for services to eligible child care providers. The agency also recognizes the need to increase access to child care for low-income families of special needs children; and therefore proposes to make incentive payments available to child care providers who supply specialized care including specific facilities/equipment, lower staff ratio, specially trained staff, etc., to children with special needs.

The proposed amendments will not increase cost to a child care-eligible client as the agency also proposes to increase the percentage of child care costs paid for by the agency thereby absorbing the provider payment increase.

Section 5102 is being amended to include a definition of "Special Needs Child Care." Section 5109.B.3. is being adopted to combine the information from Section 5109.B.1.c. and B.2.c. as the information in these Subparagraphs is duplicative and does not address the number of hours child care is actually needed and available.

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 12. Child Care Assistance
Chapter 51. Child Care Assistance Program
§5102. Definitions

* * *

Special Needs Child Care? child care for a child up to age 17 who because of a mental, physical, or emotional disability, requires specialized facilities, lower staff ratio, and/or specially trained staff to meet his or her developmental and physical needs. Incentive payments up to

25 percent higher than the regular rates can be allowed for a special needs child if the provider is actually providing the specialized care.

* * *

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:

§5107. Child Care Provider

A. - E.4. ...

F.1. Quality incentive bonuses are available to:

a. - b. ...

c. Child Care Assistance Program eligible providers who provide special care for children with special needs. This special needs care includes but is not limited to specialized facilities/equipment, lower staff ratio, and specially trained staff. The amount of these special needs care incentive payments will be in accordance with 5109.B.1.b. and 5109.B.2.b.

2. ...

G. The Child Care Assistance Program offers repair and improvement grants to either licensed or registered providers, or to those who have applied to become licensed or registered, to assist with the cost of repairs and improvements necessary to comply with DSS licensing or registration requirements and/or to improve the quality of child care services.

1. Effective September 1, 2002 the program will pay for 75 percent of the cost of such a repair or improvement, up to the following maximums.

a. For Class A centers the maximum grant amount will be equal to $100 times the number of children listed in the licensed capacity, or $10,000, whichever is less.

b. For Family Child Day Care Home (FCDCH) providers the maximum grant amount will be $600.

c. These amounts may be adjusted at the discretion of the assistant secretary, based upon the availability of funds.

2. A provider can receive no more than one such grant for any state fiscal year. To apply, the provider must submit an application form indicating that the repair or improvement is needed to meet DSS licensing or registration requirements, or to improve the quality of child care services. Two written estimates of the cost of the repair or improvement must be provided and the provider must certify that the funds will be used for the requested purpose. If the provider has already paid for the repair or improvement, verification of the cost in the form of an invoice or cash register receipt must be submitted. Reimbursement can be made only for eligible expenses incurred no earlier than six months prior to the application.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:

§5109. Payment

A. The sliding fee scale used for non-FITAP recipients is subject to adjustment based on the state median income and poverty levels, which are published annually. A non-FITAP household may pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "co-payment." The sliding fee scale is based on a percentage of the state median income.

Sliding Fee Scale for Child Care Assistance Recipients
75 Percent of Projected Median Income

Number in Household	2	3	4	5	6	DSS %
Monthly Household Income	0 - 968	0 - 1219	0 - 1471	0 - 1723	0 - 1974	75%
	969 – 1535	1220 – 1908	1472 – 2281	1724 - 2654	1975 - 3027	55%
	1536 – 2101	1909 – 2596	2282 – 3090	2655 - 3585	3028 - 4079	35%
	above 2101	above 2596	above 3090	above 3585	above 4079	0%

Number in Household	7	8	9	10	11	DSS %
Monthly Household Income	0 - 2226	0 - 2478	0 - 2729	0 - 2981	0 - 3233	75%
	2227 - 3199	2479 - 3372	2730 – 3543	2982 - 3716	3234 - 3888	55%
	3200 - 4172	3373 - 4265	3544 – 4357	3717 - 4450	3889 - 4543	35%
	above 4172	above 4265	above 4357	above 4450	above 4543	0%

Number in Household	12	13	14	15	16	DSS %
Monthly Household Income	0 - 3484	0 - 3736	0 - 3988	0 - 4239	0 - 4491	75%
	3485 - 4060	3737 - 4232	3989 – 4405	4240 - 4577	4492 - 4749	55%
	4061 - 4636	4233 - 4728	4406 – 4821	4578 - 4914	4750 - 5006	35%
	above 4636	above 4728	above 4821	above 4914	above 5006	0%

Number in Household	17	18	19	20		DSS %
Monthly Household Income	0 - 4743	0 - 4994	0 - 5246	0 - 5498		75%
	4744 - 4921	4995 – 5093	5247 – 5266			55%
	4922 - 5099	5094 – 5192	5267 – 5285			35%
	above 5099	above 5192	above 5285			0%

B. Determination of Payments

1. Payments to providers on behalf of non-FITAP recipients will be a percentage of the lesser of:

a. ...

b. the state maximum rate for authorized services as indicated below.

Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Class A	$16.50	$17.50	$20.65	$21.65
Class E	$14.00	$15.00	$17.50	$18.50
Class R	$14.00	$15.00	$17.50	$18.50
Class U	$13.50	$14.50	$16.90	$17.90

2. Payments to providers on behalf of FITAP recipients will be the lesser of:

a. ...

b. the State Maximum Rate for authorized services as indicated below.

Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Class A	$16.50	$17.50	$20.65	$21.65
Class E	$14.00	$15.00	$17.50	$18.50
Class R	$14.00	$15.00	$17.50	$18.50
Class U	$13.50	$14.50	$16.90	$17.90

3. The number of hours authorized for payment is based on the lesser of the following:

a. the number of hours the child is actually in care each week; or

b. the number of hours the head of household, the head of household's spouse, or the minor unmarried parent is working and/or attending a job training or educational program each week, plus one hour per day for travel to and from such activity; or

c. the number of hours care is actually needed and available.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), LR 30:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule could positively impact family stability by improving the quality of care supplied by child care providers, in particular, those providing care for special needs children.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? This Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? This Rule will have no effect on the functioning of the family.

4. What effect will this Rule have on family earnings and family budget? This Rule may have a positive impact on the family budget as low-income child care recipients may pay a lower co-payment as a result of the department's increased percentage of payment; however, this increase will possibly be offset by the increase in provider rate increase.

5. What effect will this Rule have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

Interested persons may submit written comments by May 27, 2004, to Adren O. Wilson, Assistant Secretary, Office of Family Support, P. O. Box 94065, Baton Rouge, LA 70804-9065. He is the person responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on May 27, 2004, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 N. 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).

Ann Silverberg Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: CCAP? Provider Payment Increase

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this Rule will result in a cost increase for the agency of approximately $2,974,800 for FY 03/04 and $14,094,755 for FY 04/05 and FY 05/06. These costs reflect the increase in provider payment rates and an increase in the state's share of payments. There are no anticipated costs to any other state or local governmental units.

The $2,974,800 for FY 03/04 includes the cost of publishing rulemaking and printing policy changes which is estimated to be $550. These costs will be borne by Federal Child Care Block Grant funds. The agency currently has funds to implement this change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This Rule will have 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 costs to any non-governmental groups or persons as a result of this Rule. Although the cost of child care will increase as a result of the provider rate increase, the agency's share of payments will increase by 5 percent. This should offset the cost to the client as their co-payment should be about the same.

Eligible child care providers will have additional revenue after implementation of the new payment plan. The estimated increase in revenue to the providers is 13.5 percent based on results of the 2003 Child Care Market Rate Survey. It is anticipated that this additional revenue will result in an improved quality of service.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule should have no impact on competition and employment.

David H. LeBlanc	H. Gordon Monk
Agency Head Designee	Staff Director
0404#077	Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services
Office of Family Support

FITAP, CCAP, KCSP, and FSP? Reporting Requirements
(LAC 67:III.1257, 1998, 5103, 5104, 5107, and 5347)

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.1257 in the Family Independence Temporary Assistance Program (FITAP), §§5103 and 5107 in the Child Care Assistance Program (CCAP) and §5347 in the Kinship Care Subsidy Program (KCSP) and to adopt §§1998 and 5104 in the Food Stamp and Child Care Assistance Programs.

Pursuant to 7 CFR Part 273, amendments are necessary to the FITAP, CCAP, KCSP and Food Stamp Programs, in order to comply with the federal mandates regarding reporting requirements and to avoid federal penalties and sanctions that could occur when benefits or services are received inappropriately as a result of inaccurate or unreported information. The agency intends to adopt, amend, or repeal various Sections of each program in order to specify and align reporting requirements in the FITAP, KCSP, CCAP, and Food Stamp Programs. The reorganized Sections will contain information mandated by the federal regulations, as well as information that aligns the reporting requirements of all four programs. The Sections will also distinguish between the reporting requirements for households included in a food stamp semi-annual reporting household from those not included in the semi-annual reporting households.

Additionally, federal regulations mandate that all children receiving child care services be immunized and that verification of such be provided. In order to comply with federal regulations and to avoid severe penalties or sanctions, the agency intends to amend §5107.Child Care Providers, to require that family day care home providers retain an immunization record signed/stamped by a physician or physician's designee on each child in care. §5107.B.1.d. is being amended for technical reasons only.

A Declaration of Emergency effecting these changes was signed February 1, 2004, and published in the February issue of the *Louisiana Register*.

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
§1257. Reporting Requirements

A. Effective February 1, 2004, an FITAP household that is not included in a food stamp semi-annual reporting household shall report any change that affects eligibility or the amount of monthly benefits. Changes in income must be reported if the household's gross monthly income changes by more than $100 in earned income or $50 in unearned income. Changes shall be reported within 10 days of the knowledge of the change.

B. Effective February 1, 2004, an FITAP household that is included in a food stamp semi-annual reporting household is subject to the semi-annual household reporting requirements in accordance with §2013.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231 et seq. 7 CFR Part 273.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:522 (March 2002), amended LR 30:

Subpart 3. Food Stamps
Chapter 19. Certification of Eligible Households
Subchapter L. Reporting Changes
§1998. Reporting Requirements Effective February 1, 2004

A. A food stamp household that is not included in semi-annual reporting shall report any change that affects eligibility or the amount of monthly benefits. Changes in income must be reported if the household's gross monthly

income changes by more than $100 in earned income or $50 in unearned income. Changes shall be reported within 10 days of the knowledge of the change.

B. A food stamp household that is included in semi-annual reporting is subject to the semi-annual household reporting requirements in accordance with §2013.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.12(a).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance

Subchapter B. Child Care Assistance Program

§5103. Conditions of Eligibility

A. - C. ...

D. Repealed [Effective February 1, 2004.]

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 58 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:

§5104. Reporting Requirements
Effective February 1, 2004

A. A low income child care household that is not included in a food stamp semi-annual reporting household shall report any change that affects eligibility or the amount of monthly benefits. Changes in income must be reported if the household's gross monthly income changes by more than $100 in earned income or $50 in unearned income. Changes shall be reported within 10 days of the knowledge of the change.

B. A low income child care household that is included in a food stamp semi-annual reporting household is subject to the semi-annual reporting requirements in accordance with §2013. In addition, these households must report the following changes within 10 days of the knowledge of the change:

1. a change in child care provider;

2. termination of any TEMP's employment or training; or

3. a child receiving CCAP services leaves the home.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, 7 CFR Part 273.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR:30:

§5107. Child Care Provi ders

A. - B. ...

1. To be eligible for participation, a family child day care home provider must sign a provider agreement, complete a request for registration and Form W-9, pay appropriate fees, furnish verification of Social Security number and residential address, provide proof that he/she is at least 18 years of age, and meet all registration requirements, including:

a. - c. ...

d. retain a statement of good health signed by a physician or his designee which must have been obtained within the past three years and be obtained every three years thereafter; and

e. - f. ...

g. effective February 1, 2004, retain an immunization record signed/stamped by a physician or a physician's designee on each child receiving care verifying the child has had, or is in the process of receiving all age-appropriate immunizations as required by the Office of Public Health. No family day home provider is required to comply with this provision if a child's parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the parent or guardian objects to the procedure on religious grounds.

B.2 - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002) LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:

Subpart 13. Kinship Care Subsidy Program (KCSP)

Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§5347. Reporting Changes

A. Effective February 1, 2004, a KCSP household that is not included in a food stamp semi-annual reporting household shall report any change that affects eligibility. Changes in income must be reported if the household's gross monthly income changes by more than $100 in earned income or $50 in unearned income. Changes shall be reported within 10 days of the knowledge of the change.

B. Effective February 1, 2004, a KCSP household that is included in a food stamp semi-annual reporting household is subject to the semi-annual household reporting requirements in accordance with §2013.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231 et seq., 7 CFR Part 273.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2565 (December 2002), amended LR 30:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule will have no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? Aligning the reporting requirements for the CCAP, FITAP, KCSP and Food Stamp Program should result in less confusion for the client's regarding their responsibility to report changes because all program requirements will the same. This should have a positive impact on the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will have no effect on family earnings or budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

Interested persons may submit written comments by May 27, 2004, to Adren O. Wilson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065. She is the person responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on May 27, 2004, 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).

Ann Silverberg Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: FITAP, CCAP, KCSP, and FSP? Reporting Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed amendments will create no additional costs or savings to state or local governmental units. Estimated implementation costs to state government will be approximately $925 for publication of rulemaking in the *Louisiana Register*, and printing of policy and forms.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This Rule will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The Rule will result in no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Rule will have no impact on competition and employment.

Mary Joseph
Assistant Secretary
0404#076

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services
Office of Rehabilitation Services
Vocational Rehabilitation Services

Financial Information and Transition Planning Process
(LAC 67:VII.115 and 119)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) proposes to amend: §115, Financial, and §119, Transition Process for Individuals in Secondary Education Programs, of its Vocational Rehabilitation Policy Manual Section. In Section 115, Financial, the agency is amending guidelines to remove the reference to an individual's status for the budget analysis from policy. Revision to §119, Transition Process for Individuals in Secondary Education Programs, is being made to provide clarification regarding the transition planning process for the provision of rehabilitation services to transition students who are exiting secondary programs into post-school activities. This proposed Rule does not change the vocational rehabilitation services that are based on the agency's financial need policy.

Title 67
SOCIAL SERVICES
Part VII. Rehabilitation Services
Chapter 1. General Provisions
§115. Financial

A. - B.2.e. ...

f. Individuals who do not provide LRS with necessary financial information to perform the budget analysis will be eligible only for those vocational rehabilitation services that are not conditioned upon an analysis to determine the extent of the individual's participation in the costs of such services.

g. Individuals who have defaulted on a student loan must make good faith efforts with the lender to clear the default or to defer payment before LRS will participate in the cost of the client's vocational rehabilitation program.

h. Simultaneously with the comprehensive assessment, at the annual review of the IPE, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis for each client requiring vocational rehabilitation services as listed above in §115.B.2.b.i.-xi. The amount of client participation in the cost of their vocational rehabilitation program will be based upon the most recent budget analysis at the time the relevant IPE or amendment is developed.

B.3. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 24:959 (May 1998), LR 25:1273 (July 1999),

LR 27:212 (February 2001), LR 27:1561 (September 2001), LR 29:47 (January 2003), LR 30:

§119. Transition Process for Individuals in Secondary Education Programs

A. Louisiana Rehabilitation Services (LRS) will become involved in the transition planning process for students with disabilities as early as possible to ensure that students' transition needs are met in a timely manner. LRS involvement in the transition process will provide for outreach, consultation, technical assistance and transition planning by agency personnel that facilitates the development and completion of students' individualized education programs (IEPs), as well as the completion and approval of eligible students' individualized plans for employment (IPEs) prior to their exit from the school system.

B. LRS' transition process is a coordinated set of vocational rehabilitation services planned for an eligible student with an official secondary education transition plan. Such vocational rehabilitation services for transition students are designed within an outcome-oriented process that promotes movement from school to post school activities, including post secondary education, vocational training, integrated employment (including supported employment), as well as referral services for available continuing and adult education, adult services, independent living or community participation.

C. LRS' vocational rehabilitation services for transition students shall be based upon the eligible student's individual needs, taking into account the student's abilities, preferences and interests, and shall include vocational guidance and counseling, functional vocational evaluation, instruction, community experiences, and other services and activities that may be necessary to facilitate achievement of the employment outcome identified on the IPE.

D. ...

E. The following provisions are the key points in LRS' transition process.

1. LRS will provide consultation and technical assistance (to the extent possible considering time and agency resources) as early as possible in the transition process, for students who have official transition plans within the state education system.

2. LRS will ensure the development and approval of IPEs for eligible students who have official transition plans within the state education system as early as possible in the transition process but, at the latest, by the time each student determined eligible for vocational rehabilitation services leaves the school setting.

F. The LRS director or designee shall have the sole responsibility for any exceptions to this policy on services for transition students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 25:1276 (July 1999), LR 30:

Family Impact Statement

The Department of Social Services, Louisiana Rehabilitation Services hereby issues this Family Impact Statement: The proposed Rule for the Vocational Rehabilitation Policy Manual §§115 and 119 has no known impact on family formation, stability, and autonomy, as set forth in R.S. 49:972.

Interested persons may submit written comments for 40 days from the date of this publication to James Wallace, Director, Louisiana Rehabilitation Services, 8225 Florida Boulevard, Baton Rouge, LA 70806-4834. Mr. Wallace is responsible for responding to inquiries regarding the proposed Rule.

Public Hearings will be conducted Wednesday May 26, 2004 at 10 a.m., as follows, Baton Rouge, LRS Regional Office, 3651 Cedarcrest Avenue; Alexandria, LRS Regional Office, 400 Murray Street, Shreveport, LRS Regional Office, 1525 Fairfield Avenue; New Orleans, LRS Regional Office, 3500 Canal Street.

Individuals with disabilities who require special services should contact Judy Trahan, Program Manager, Louisiana Rehabilitation Services, at least 14 working days prior to the hearing if special services are needed for their attendance. For information or assistance, call 225-925-4131 or 1-800-737-2958, or 1-800-543-2099 for voice and TDD.

Ann S. Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Financial Information and Transition Planning Process

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation cost is minimal. The only cost associated with this rule change will be the cost to publish this rule change in the Louisiana Register.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no increase or decrease in revenues. This rule change allows the agency flexibility for staff, within existing resources, to work with transition students prior to the year before their exit year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

In negotiated and agreed upon situations there will be increased availability of transition counselors and those specifically identified consumers will have access to assistance for vocational planning at an earlier age. Both agency resources and specific client needs will be determining factors. Earlier access to the planning process results in consumers becoming better informed about post-school employment options that can include:

Improved access to consumer vocational planning through Individualized Education Plan meetings, outreach activities, consultation, technical assistance, and planning and coordination of services that could include participation in school-to-work activities;

Information about consumer supported employment options.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The agency's increased emphasis on providing information and services to school systems, families, and transition students will result in students who are better prepared to seek job training and placement opportunities. In addition, early identification of assistive technology needs will maximize students' success in the workforce. Students will also be

referred to other appropriate community-based resources, as applicable.

James Wallace Director 0404#078	H. Gordon Monk Staff Director Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development
Professional Engineering and Land Surveying Board

Professional Engineers and Land Surveyors
(LAC 46:LXI.Chapters 1-33)

Under the authority of the Louisiana Professional Engineering and Land Surveying Licensure Law, R.S. 37:681 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Professional Engineering and Land Surveying Board has initiated procedures to amend its Rules contained in LAC 46:LXI.Chapters 1 through 33.

The amendments are primarily housekeeping revisions of existing board Rules and were necessitated by the passage of Acts 2003, No. 279, which were housekeeping revisions of the Professional Engineering and Land Surveying Licensure Law, R.S. 37:681 et seq. By virtue of these amendments, the following sections of the existing board Rules are being repealed: §§1903 through 1911.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXI. Professional Engineers and Land Surveyors
Chapter 1. General Provisions

§101. Evidence of Qualification; Licensure

A. In order to safeguard life, health and property, and to promote the public welfare, any individual in either public or private capacity, or foreign or domestic firm, practicing or offering to practice professional engineering or professional land surveying, shall be required to submit evidence that he/she is qualified to so practice and shall be licensed with the board. Unless specifically exempted by law, it shall be unlawful for any person to practice or to offer to practice in this state, engineering or land surveying, as defined in the licensure law and the rules of the board, or to use in connection with his/her name or otherwise assume, use or advertise any title or description tending to convey the impression that he/she is a professional engineer or a professional land surveyor, unless such person has been duly licensed under the provisions of the licensure law and the rules of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:643 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1020 (July 2001), LR 30:

§103. Rulemaking

A. Under the provisions of R.S. 37:688, the board has the authority to make, adopt, alter, amend, and promulgate rules consistent with the constitution and laws of this state. This is necessary for the proper performance of the duties of the board and the regulations of the proceedings before it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:643 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1020 (July 2001), LR 30:

§105. Definitions

A. The words and phrases defined in R.S. 37:682 shall apply to these rules. In addition, the following words and phrases shall have the following meanings, unless the content of the rules clearly states otherwise.

Accredited Engineering Curriculum? a curriculum approved by the EAC/ABET or an equivalent accrediting agency as an engineering academic program that satisfies the academic requirements for the practice of engineering at the professional level.

Act or Licensure Law? R.S. 37:681-37:703, including any amendments thereto. This law empowers the board to regulate the practice of engineering and land surveying in the state of Louisiana.

Benefits of Any Substantial Nature or Significant Gratuity? as used in the rules of professional conduct, shall mean any acts, articles, money or other material possessions which are of such value or proportion that their acceptance could reasonably be expected to create an obligation on the part of the receivers, or otherwise compromise their ability to exercise their own judgment, without regard to such benefit or gratuity.

Bona Fide Employee? an individual in the service of a licensee under a contract of hire, expressed or implied, oral or written, where the employer has the power or right to control and direct the employee in the material details of how the work is to be performed and the employer pays wages or a salary directly to the employee, pays a share of social security and federal unemployment tax, withholds federal income tax and the employee's share of social security payments, provides training, furnishes tools and materials, and sets hours of work. Generally such employees work full time for the employer, perform work at a location assigned by the employer and do not offer their services to the general public.

Bona Fide Established Commercial Marketing Agency? a business which is specifically devoted to public relations, advertising and promoting the services of a client, and which may be appropriately licensed as required by state statutes.

EAC/ABET? the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology.

Employees? for purposes of R.S. 37:701(C) only, shall mean:

a. any and all individuals to or for whom a firm engaged in industrial operations pays salary or other compensation, withholds taxes, provides benefits or pays workers' compensation and/or liability insurance, including without limitation all individuals covered by the definition of *bona fide employee* as set forth in the rules of the board; or

b. any and all individuals whose conduct a firm engaged in industrial operations has the right to control, including the right to hire, fire or directly supervise, the right to set the individual's work schedule and job duties, or the right to set the terms and conditions of employment, including without limitation individuals supplied through an employment agency or consultant firm.

Firm? a domestic or foreign firm, partnership, association, cooperative, venture, corporation, limited liability company, limited liability partnership, or other entity.

Fraud, Deceit or Misrepresentation? intentional deception to secure gain, through attempts to deliberately conceal, mislead, or misrepresent the truth with the intent to have others take some action relying thereupon, or any act which provides incorrect, false, or misleading information, upon which others might rely.

Gross Incompetence? as used in R.S. 37:698(A)(2), shall mean the practice of engineering or land surveying by a licensee who is either incapable of exercising ordinary care and diligence or who lacks the ability and skill necessary to properly perform the duty he/she undertakes. (The practice of engineering in an area other than that in which the licensee has been issued a license will not be considered as evidence of gross incompetence, provided the licensee is otherwise qualified by education or experience.) Examples of practice which the board may consider to constitute gross incompetence include but are not limited to:

a. the undertaking of assignments other than those for which the licensee is qualified by education or experience in the specific technical fields involved; or

b. the affixing of the licensee's signature or seal to any engineering or land surveying plan or document dealing with the subject matter in which the licensee lacks competence by virtue of education or experience.

Gross Misconduct? as used in R.S. 37:698(A)(2), shall mean the practice of engineering or land surveying by a licensee who performs any acts, causes any omissions or makes any assertions or representations which are fraudulent, deceitful, or misleading, or which in any manner whatsoever discredits or tends to discredit the professions of engineering or land surveying. Gross misconduct as used herein shall also include any act or practice in violation of the board's rules of professional conduct or use of seals.

Gross Negligence? as used in R.S. 37:698(A)(2), shall mean the practice of engineering or land surveying by a licensee characterized by the licensee's lack of reasonable care, precaution, or attention to the health, safety, or welfare of others, which could result in injury or damage to life or property or financial loss. Examples of practice which the board may consider to constitute gross negligence include, but are not limited to:

a. the preparation of an incomplete or inaccurate engineering or land surveying plan or document that is below acceptable standards, which is released for construction or other lawful purposes, and which could result in financial loss, damage or injury; or

b. failure of the licensee to exercise reasonable diligence and care in providing professional services, which could result in financial loss, damage or injury.

NCEES Model Law Engineer? an individual who meets the minimum requirements of licensure law and:

a. is a graduate of an engineering curriculum accredited by EAC/ABET, or the equivalent;

b. has passed the fundamentals of engineering examination using the NCEES cut score;

c. has a specific record of an additional four years of progressive experience on engineering projects following graduation;

d. has passed the principles and practice of engineering examination using the NCEES cut score; and

e. has a current NCEES record on file.

NCEES Model Law Surveyor? an individual who meets the minimum requirements of this act and is a graduate of an EAC/ABET engineering curriculum, RAC/ABET curriculum, or the equivalent.

Person? an individual or firm.

Practice of Engineering?

a. practice of engineering is defined in R.S. 37:682. The board recognizes in the design of buildings and similar structures that there is overlap between the work of architects and engineers. It is recognized that an architect who has complied with all of the current laws of Louisiana relating to the practice of architecture has a right to engage in some activities properly classifiable as professional engineering insofar as it is necessarily incidental to his/her work as an architect. Likewise, it is recognized that the professional engineer who has complied with all of the current laws of Louisiana and is properly licensed has the right to engage in some activities properly classifiable as architecture insofar as it is necessarily incidental to his/her work as an engineer. Furthermore, the architect or the professional engineer, as the case may be, shall assume all responsibility for compliance with all the laws or ordinances relating to the designs or projects in which he/she may be engaged;

b. teaching of engineering design and the responsible charge of the teaching of engineering design shall be considered as the practice of engineering. Associate professors and those of higher rank teaching engineering design courses who were employed by a college or university in the state of Louisiana on January 1, 1991, or thereafter, shall be professional engineers licensed by the Louisiana board. Such professors who become employed on or after January 1, 1991 shall have a period of two years in which to become licensed. The associate professors and those of higher rank teaching engineering design courses in the employ of a college or university in the state of Louisiana prior to January 1, 1991 are exempt from professional engineering licensure as long as they remain in continuous employment by a college or school of engineering in the state of Louisiana. Those persons who are exempt from professional engineering licensure are exempt only for the purpose of the teaching of engineering design and may not present themselves to the public as engineers or professional engineers or provide or offer to provide engineering services as defined by R.S. 37:682.

Practice of Land Surveying? defined in R.S. 37:682. The board recognizes that there exists a close relationship between land surveying and some areas of engineering, with some activities common to both professions; however, survey work related to property boundaries must be performed under the responsible charge of a professional land surveyor. Presented below are guidelines which shall be used as an aid in determining the types of surveying services

which may be rendered by professional land surveyors or professional engineers.

a. Surveying and mapping functions which require the establishment of relationships to property ownership boundaries are unique to land surveying and must be performed by or under the responsible charge of a professional land surveyor. These functions include:

i. boundary surveys;

ii. subdivision surveys and plats;

iii. public land surveys.

b. Surveying and mapping functions not unique to land surveying must be performed by or under the responsible charge of a professional land surveyor whenever they require the establishment of the relationship of property ownership boundaries. Those functions include:

i. surveys of servitudes (easements) and rights of way;

ii. surveys of leases;

iii. topographical surveys;

iv. surveys for record;

v. layout surveys for construction;

vi. hydrographic surveys;

vii. mine surveys;

viii. mapping.

c. Surveying and mapping functions which do not require the establishment of the relationship of property ownership boundaries may be performed by or under the responsible charge of either a professional engineer or a professional land surveyor. Such surveying and mapping functions include:

i. surveys of servitudes (easements) and rights of way;

ii. surveys of leases;

iii. topographical surveys;

iv. surveys for record drawing;

v. layout surveys for construction;

vi. hydrographic surveys;

vii. mine surveys;

viii. mapping;

ix. geodetic surveys;

x. cartographic surveys;

xi. horizontal and vertical control surveys;

xii. quantity and measurement surveys;

xiii. profiles and cross sections;

xiv. site grading plans.

d. Professional services which require the application of engineering principles and the interpretation of engineering data must be performed by or under the responsible charge of a professional engineer.

Responsible Charge? defined in R.S. 37:682. It shall mean the direct control and personal supervision of engineering or land surveying service or work, as the case may be.

Seal? a symbol, image, or list of information that may be found in the form of a rubber stamp, computer generated data, or other form found acceptable to the board this is applied or attached to the document in a manner consistent with the board rules on use of seals.

Signature? handwritten or digital as follows:

a. a handwritten message identification containing the name of the person who applied it; or

b. a digital signature which is an electronic authentication process attached to or logically associated with an electronic document. The digital signature must be:

i. unique to the person using it;

ii. capable of verification;

iii. under the sole control of the person using it; and

iv. linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed; or

c. A digital signature that uses a process approved by the board will be presumed to meet the criteria set forth in Subsection b of this definition.

Under the Responsible Charge of a Professional Engineer? as it applies in R.S. 37:701(C) only, shall mean:

a. the work performed by a professional engineer, duly licensed under the provisions of this Chapter; or

b. the work reviewed and approved by a professional engineer, duly licensed under the provisions of this Chapter, who is authorized to direct changes to the engineering work; or

c. the work performed in accordance with a system of engineering practices approved by a professional engineer, duly licensed under the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Surveyors, LR 4:298 (August 1978), amended LR 5:110 (May 1979), LR 7:643 (December 1981), LR 14:449 (July 1988), LR 16:772 (September 1990), LR 17:804 (August 1991), LR 20:901 (August 1994), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1020 (July 2001), LR 30:

Chapter 7. Bylaws

§701. Board Nominations

A. The following guidelines and procedures will be observed in order that timely and prudent advice can be given to the Louisiana Engineering Society and the Louisiana Society of Professional Surveyors with regard to nominees for vacancies on the board.

B. The division of engineering practice classification of each board member shall remain unchanged during each administrative year.

1. Professional engineer board members shall continue to represent the practice area of engineering for which appointed, unless formal advice has been received from the Louisiana Engineering Society that the practice area of engineering classification of a member has been changed.

2. Board members who retire from active practice shall continue to represent the practice area of engineering for which appointed and currently serving at the time of retirement.

3. If a board member is not a member of the Louisiana Engineering Society or the Louisiana Society of Professional Surveyors, it shall be his duty to notify the executive secretary of any significant change in his regular employment; the executive secretary shall so advise the Louisiana Engineering Society or the Louisiana Society of Professional Surveyors for its action.

C. An examination will be made of the anticipated vacancies scheduled to occur during each new administrative

year because of expiration of terms of appointment, as published in the roster, and the appropriate nominating organization shall be soon notified, along with the official interpretation of the practice areas of engineering represented, as well as a priority listing of the desired practice areas requested to be considered.

D. In the event of death or resignation of a board member, the executive secretary shall immediately notify the appropriate nominating organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 4:298 (August 1978), amended LR 5:120 (May 1979), LR 11:1179 (December 1985), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1023 (July 2001), LR 30:

§703. Compensation and Expenses

A. Authority to Incur Traveling Expenses

1. The board shall allow its members actual traveling expenses plus per diem to attend regular, special and committee meetings of the board. Per diem for the time spent traveling and for time spent at the meeting shall be allowed. The per diem allowance for time spent traveling shall not exceed two days for these meetings.

2. The board may, by resolution at one of its meetings, authorize any of its members or representatives to travel at the expense of the board to attend meetings and conventions such as those of the National Council of Examiners for Engineering and Surveying (NCEES), the Accreditation Board for Engineering and Technology (ABET), or other allied organizations. Per diem for time spent traveling and for time spent at the meeting will be allowed.

B. Reimbursement of Transportation Expenses

1. Expenses for transportation by personally owned vehicles shall be reimbursed at the mileage rate specified by the board at a regular meeting. Reimbursement shall be on the basis of the most direct route. The traveler shall be required to pay all of the operating expenses of the vehicle.

2. Air travel will be by coach or economy class rates when available. Travel by state plane is also permitted. Reimbursement will be limited to comparable coach or economy class rates. Receipts or other verification of travel shall be attached to the expense report. Reimbursement will be on the basis of the most direct route available. Air travel by private aircraft may be approved by the board. When so approved, reimbursement will be on the basis of coach airfare.

C. Lodging and Meals. The board shall allow its members to be reimbursed actual expenses for meals (including tips) and for lodging at a single occupancy rate. Receipts for lodging shall be submitted and attached to the travel voucher.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:58 (February 1976), amended LR 5:110 (May 1979), LR 11:1182 (December 1985), LR 19:55 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1023 (July 2001), LR 30:

§705. Meetings

A. Regular Meetings. The board shall hold at least four regular meetings each year.

B. Annual Meetings. The first regular meeting of the fiscal year is to be held in July, and shall be designated as the annual meeting.

C. Special Meetings. The chairman or the secretary may call special meetings when considered necessary. Upon written request of six board members, the chairman is required to call a special meeting.

D. Open Meetings. Every meeting of the board shall be open to the public, unless closed as an executive session.

E. Meeting Dates. Written public notice of the dates, times, and places of all regular meetings shall be given at the beginning of each fiscal year.

F. Separate Notice of All Meetings. In addition, separate written, public notice of any regular, special, or rescheduled meeting shall be given no later than 24 hours before the holding of the meeting. This separate notice shall include the agenda, date, time and place of the meeting.

G. Posting of Notice. The public notice discussed in §705.E and F shall include:

1. posting a copy of the notice at the office of the board; or

2. publication of the notice in the board newsletter no less than 24 hours before the meeting.

H. Notice to Board Members. Notice of all meetings, in conformity with §705.E and F shall be given in writing to each member by the secretary.

I. Quorum. A simple majority of board members shall constitute a quorum for the transaction of business.

J. *Roberts Rules of Order. Roberts Rules of Order* shall govern the proceedings of the board at all meetings, except as otherwise provided herein or by statute.

K. Location of Meetings. All meetings shall be held at the board office, unless, in the judgment of the chairman, it is necessary or convenient to meet elsewhere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), amended LR 11:1181 (December 1985), LR 19:55 (January 1993), LR 21:1354 (December 1995), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1023 (July 2001), LR 30:

§707. Board Organization

A. Number of Board Members. The board shall be comprised of 11 members, each of whom shall be appointed by the governor in accordance with the requirements established by law.

B. Board Officers. The board shall elect annually from its membership the following officers: a chairman, a vice chairman, a secretary, and a treasurer.

C. Date of Elections. The election of board officers shall take place not later than at the board's May meeting. In the event that an officer cannot complete his/her term, an election in order to fill the unexpired term shall be scheduled at the earliest practical regular or special meeting.

D. Duties

1. Chairman. The chairman shall preside at all meetings, appoint all committees, except as otherwise

provided, and shall, together with the secretary, sign all certificates issued by the board. The chairman shall compile certificates issued by the board. The chairman shall compile the agenda for each regular and special meeting.

2. Vice Chairman. The vice chairman shall, in the absence of the chairman, perform the duties of and possess all of the powers of the chairman. Should the chairman's membership on the board be terminated prior to the election of his/her successor, the vice chairman shall automatically assume the duties of chairman until the board is re-organized.

3. Secretary. The secretary shall:

a. be the official custodian of the records of the board and of the seal of the board and see that the seal of the board is affixed to all appropriate documents;

b. sign, with the chairman, certificates of licensure, the issuance of which shall have been authorized by resolution of the board;

c. assume all responsibilities of the executive secretary, in the event of the absence or incapacity of the executive secretary;

d. sign the minutes of the board meetings after approval of the minutes by the board.

4. Treasurer. The treasurer shall be responsible for the annual budget and the annual audit of the board. He/she shall send copies of the annual audit and the financial statement to the governor after the report of the audit has been reviewed by the board. The treasurer, with the approval of the chairman, shall be empowered to authorize expenditures of funds, in the beneficial interest of the board and without its prior approval, up to an aggregated amount of $5,000 (within the current budget), and any expenditures made under this authorization shall be reported to and ratified by the board at its next regular meeting.

E. Committees. The board may establish standing committees, including but not limited to the following: Executive Committee, Civil Engineering Committee, Other Disciplines Engineering Committee, Land Surveying Committee, Engineer Intern Committee, Liaison and Law Review Committee, Education/Accreditation Committee, Finance Committee, Nominations and Awards Committee, Complaint Review Committee, Continuing Professional Development Committee, and Architect-Engineer Liaison Committee. The board may also establish ad hoc committees from time to time as necessary.

1. Power to Appoint. Unless otherwise provided below, the chairman of the board shall have the power to make all committee appointments. All committee appointments shall be effective from date of appointment until the next annual meeting of the board.

2. Executive Committee. The chairman, vice chairman, secretary, and treasurer shall constitute the Executive Committee. The chairman of the board shall serve as chairman of the Executive Committee. The Executive Committee shall oversee the operations of the office of the board and shall advise the executive secretary as to the conduct of the business of the board between meetings. The Executive Committee shall make recommendations to the board with respect to personnel, policies and procedures.

3. Engineering Committees

a. The chairman of the board may appoint one or more engineering committees, with not less than two members on each committee.

b. Each of these committees shall:

i. review applications for licensure in each respective discipline of professional engineering; and

ii. recommend approval or disapproval of applications.

4. Land Surveying Committee. The chairman of the board may appoint not less than two members to the Land Surveying Committee. All members of the Land Surveying Committee shall be professional land surveyors. The Land Surveying Committee shall:

a. review applications for licensure as a professional land surveyor;

b. review applications for certification as a land surveyor intern;

c. conduct oral examinations or interviews;

d. supervise the selection of examinations on the Louisiana laws of land surveying; and

e. recommend passing scores for the written examinations on the Louisiana laws of land surveying.

5. Engineer Intern Committee. The chairman of the board may appoint an Engineer Intern Committee which shall review, as necessary, all applications for the examination in fundamental engineering subjects and all requests for certification of individuals as engineer interns and shall make recommendations for action by the board.

6. Liaison and Law Review Committee. The chairman of the board may appoint a Liaison and Law Review Committee to work with similar committees of professional and technical organizations on matters of mutual concern. The committee shall make recommendations to the board in matters concerned with the licensure law and the rules and regulations of the board.

7. Education/Accreditation Committee. The chairman of the board may appoint an Education/Accreditation Committee to evaluate and make recommendations to the board concerning the quality of the engineering and land surveying curricula, along with evaluation of the faculties and facilities of schools within the state of Louisiana. The Education/Accreditation Committee shall have the power to make inspections in the course of its evaluations. The committee chairman shall coordinate the selection of board observers for all ABET visitations in the state.

8. Finance Committee. The chairman of the board may appoint a Finance Committee composed of not less than two board members. The treasurer will serve as the chairman of this committee. It will be the responsibility of the committee to make studies, reports and recommendations to the board on fiscal matters. At the end of the fiscal year, the Finance Committee shall review the annual audit and prepare a budget for presentation to the board at the September meeting.

9. Nominations and Awards Committee. The chairman of the board may appoint a Nominations and Awards Committee composed of not less than two members. It shall be the duty of this committee to present to the board a list of nominations for election of officers and for any applicable awards.

10. Complaint Review Committee. The Complaint Review Committee may be composed of two standing members (the executive secretary or deputy executive secretary and the board attorney) and one board member appointed on a case-by-case basis. It shall be the responsibility of the committee to review the results of investigations against licensees, certificate holders and unlicensed persons and recommend appropriate action to the board.

11. Continuing Professional Development Committee. The chairman of the board may appoint a Continuing Professional Development Committee composed of not less than two members. It shall be the duty of this committee to review and make recommendations to the board regarding continuing professional development rules, policy and providers/sponsors.

12. Architect-Engineer Liaison Committee. The chairman of the board may appoint an Architect-Engineer Liaison Committee composed of not less than two members. It shall be the duty of this committee to coordinate and discuss issues of mutual interest between this board and the State Board of Architectural Examiners.

AUTHORITY NOTE: Promulgated in accordance with RS. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:110 (May 1979), LR 11:1179 (December 1985), LR 19:54 (January 1993), LR 21:1353-54 (December 1995), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1024 (July 2001), LR 30:

§709. Executive Secretary

A. Appointment. The board shall appoint an executive secretary, who shall assist the board members in the performance of their duties.

B. Ex-Officio Committee Member. Although not a member of the board, the executive secretary shall be an ex-officio member of all committees.

C. Duties of the Executive Secretary. The executive secretary shall:

1. conduct and care for all correspondence in the name of the board;

2. record and file all applications, examinations, licensure, certifications, suspensions, revocations and disciplinary and enforcement actions;

3. send members of the board notices of all regular meetings at least 10 days in advance thereof;

4. keep correct minutes of all meetings of the board, including a record of all certificates and licenses issued;

5. examine all applications for licensure and certification and bring about the necessary correction or supplying of missing or essential data in connection with such applications prior to consideration thereof by the board;

6. address inquiries to references to verify the qualifications, experience and character of applicants as directed by the board;

7. make arrangements as required by the board for all written or oral examinations and interviews of applicants;

8. supervise the administration of the written examinations;

9. present to the board the results of examinations and other evidence of qualification;

10. have certificates prepared for those applicants who have been approved for licensure or certification by the board;

11. notify by letter to the last known address, every person and entity licensed or certified under the licensure laws of the date of the expiration of the license or certificate and the amount of the fee that shall be required for its renewal;

12. develop procedures and internal policies for all administrative functions;

13. employ and supervise the work of all investigators and secretarial, stenographic, clerical, and technical assistants essential to the work of the board, but only on approval of the executive committee and in accordance with the provisions of the licensure law;

14. investigate and dispose of allegations and apparent violations of the licensure law when possible and refer any such matters requiring formal action to the board;

15. assist the board in the adoption and amendment of rules and bylaws in accordance with the statutes;

16. represent the board at meetings of technical and professional societies and appear before student groups and legislative committee meetings;

17. write articles for publication to inform licensees, certificate holders and the public of activities and actions of the board;

18. be an associate member of the National Council of Examiners for Engineering and Surveying (NCEES);

19. assist the finance committee in the preparation of the budget;

20. assist in ensuring that expenditures are within the budget;

21. receive and account for all monies derived from the operation of the board;

22. comply with R.S. 37:690 in all matters relating to receipts and disbursements;

23. audit all bills and accounts covering expenditures and prepare all vouchers and checks for payment of approved bills;

24. keep a register of receipts and expenditures, maintaining such financial books, and show the financial condition of the board and the validity of the licenses and of the certificates which have been issued; and

25. assist in the legislative audit made of all receipts and disbursements at the close of each fiscal year (June 30) by a certified public accountant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation, Board of Registration for Professional Engineers and Land Surveyors, LR 2:53 (February 1976), amended LR 5:118 (May 1979), LR 11:1180 (December 1985), LR 19:55 (January 1993), LR 21:1354 (December 1995), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1025 (July 2001), LR 30:

§711. Domicile

A. Domicile. The domicile of the board shall be the city of Baton Rouge, Louisiana.

B. Change of Domicile. The board may vote to change its domicile.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:117 (May 1979), amended LR 11:1179 (December 1985), LR 21:1353 (December 1995), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1026 (July 2001), LR 30:

§713. Amendments to Bylaws

A. The bylaws of the board may be amended at any regular or special meeting, provided, however, that such proposed amendments have been submitted in writing to the members of the board at least 30 days prior to the meeting. The board may waive this 30-day provision at a regular meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:54 (February 1976), amended LR 5:119 (May 1979), LR 11:1183 (December 1985), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1026 (July 2001), LR 30:

§715. Rulemaking Process

A. Power to Promulgate Rules. Under the provision of the licensure law, the board is given the power to make and promulgate rules and regulations necessary for the proper performance of its duties.

B. Proposal of Rule Change. Any board member may propose the adoption of a new rule or regulation, or the amendment or revocation of an existing rule or regulation.

C. Requirements of Proposal. Such proposal shall:

1. be in writing;
2. include a draft of the requested change or changes; and
3. be sent to the chairman and the executive secretary at least 30 days before the next regular meeting of the board.

D. Copies of Proposal. The executive secretary shall send copies of the proposal to all board members at least 10 days before the next regular meeting of the board.

E. Notice of Proposal. The chairman shall place the proposed change, amendment, or revocation on the agenda for the next regular meeting scheduled after receipt of the proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:54 (February 1976), amended LR 5:119 (May 1979), LR 11:1182 (December 1985), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1026 (July 2001) LR 30:

§717. Disbursements

A. Check Requirement. All disbursements over the amount of $150 shall be made by check or approved electronic fund transfer.

B. Line Item Restrictions. Annual disbursements shall not exceed current budget line items.

C. Required Signatures on Checks. All checks must be signed by any two of the following individuals:

1. treasurer;
2. executive secretary;
3. deputy executive secretary; or
4. any board member as directed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:58 (February 1976), amended LR 5:119 (May 1979), LR 11:1182 (December 1985), LR 21:1355 (December 1995), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1026 (July 2001), LR 30:

§719. Minutes

A. Requirement of Keeping Minutes. The board shall keep written minutes of all of its open meetings.

B. Required Items for Inclusion. The minutes shall include, but need not be limited to:

1. the date, time, and place of the meeting;
2. the members of the board recorded as either present or absent; and
3. the substance of all matters decided, and, at the request of any board member, a record, by individual member, of any votes taken.

C. Optional Items for Inclusion. Any board member may request that a matter discussed during a meeting be placed in the written minutes of that meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 11:1181 (December 1985), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1026 (July 2001), LR 30:

§721. Publications of the Board

A. Roster. A roster showing the names and addresses of all professional engineers, the discipline of engineering in which professional engineers are listed, the names and addresses of all professional land surveyors, and the names and addresses of all engineer interns and land surveyor interns may be published by the board. A roster of firms may also be published by the board. The rosters may be made available through the board's website.

B. Official Journal. The official journal of the board shall be selected by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:55 (February 1976), amended LR 5:119 (May 1979), LR 11:1182 (December 1985), LR 19:55 (January 1993), LR 21:1355 (December 1995), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1026 (July 2001), LR 30:

§723. Voting

A. General Provisions. Unless otherwise specified in the following Subsections a simple majority of a quorum of the board at a meeting properly noticed and convened is necessary in order to elect an officer or approve a measure before the board.

B. Change of Domicile. In order to change the domicile of the board, approval of two-thirds of the entire board at a regular meeting properly noticed and convened is necessary.

C. Executive Session and Agenda Additions. Approval of two-thirds of a quorum of the board at a meeting properly noticed and convened is necessary in order to:

1. decide to hold an executive session; or

2. consider a matter not on the original agenda of the meeting.

D. Approval of Items Added to Agenda. If two or more board members present at a regular or special meeting are agreed to defer action of a matter not on the original agenda of the meeting that matter shall not be approved, and shall be placed on the original agenda of the next scheduled meeting.

E. Disciplinary and Enforcement Proceedings. Approval of a majority of the entire board membership authorized to participate in a proceeding is necessary in order to take disciplinary or enforcement action.

F. Amend Bylaws. A majority vote of the entire board is necessary in order to amend the bylaws.

G. Waiver of Bylaw Amendment Requirements. By a unanimous vote of the board members present at a regular or special meeting, the 30-day provision for submission of proposed bylaw amendments may be waived.

H. Manner of Voting. Voting shall be conducted in the following manner:

1. no proxy voting or secret balloting shall be permitted;

2. all votes shall be viva voce; and

3. votes on motions to hold an executive session (along with the reason for holding the session) shall be recorded and entered into the minutes of the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 11:1181 (December 1985), amended LR 19:55 (January 1993), LR 21:1355 (December 1995), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1027 (July 2001), LR 30:

§725. Executive Session

A. Reasons for Calling Executive Sessions. Executive sessions may be held for the following purposes:

1. discussion of the character, professional competence, or physical or mental health of a person, provided that such person may require that such discussion be held at an open meeting;

2. strategy sessions or negotiations with respect to collective bargaining, prospective litigation after formal written demand, or litigation when an open meeting would have a detrimental effect on the bargaining or litigating position of the board;

3. discussion regarding the report, development or course of action regarding security personnel, plans or devices;

4. investigative proceedings regarding allegations of misconduct; or

5. cases of extraordinary emergency, which shall be limited to natural disaster, threat of epidemic, civil disturbances, suppression of insurrections, the repelling of invasions, or other matters of similar magnitude.

B. Limitations on Executive Sessions. No final or binding action shall be taken during an executive session; nor may a session be called for discussion of the appointment of a person to a public body.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 11:1181 (December 1985), LR 19:55 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1027 (July 2001), LR 30:

Chapter 9. Requirements for Certification and Licensure of Individuals and Temporary Permit to Practice Engineering

§901. Engineer Intern Certification

A. The requirements for certification as an engineer intern under the several alternatives provided in the licensure law are as follows.

1. Graduates of an Accredited Engineering Curriculum. The applicant shall be a graduate of an accredited engineering curriculum of four years or more approved by the board as being of satisfactory standing, who is of good character and reputation, who has passed the written examination in the fundamentals of engineering, who was recommended for certification by a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, who has submitted an application for certification in accordance with the requirements of R.S. 37:694, and who was duly certified as an engineer intern by the board at a regular meeting.

2. Graduates with Advanced Engineering Degree. The applicant shall be a graduate of a non-EAC/ABET accredited engineering or related science or engineering technology curriculum of four years or more approved by the board as being of satisfactory standing, who has obtained an engineering graduate degree in an engineering discipline or sub-discipline from a university having an undergraduate accredited engineering curriculum in the same discipline or sub-discipline, approved by the board as being of satisfactory standing, who is of good character and reputation, who has passed the written examination in the fundamentals of engineering, who was recommended for certification by a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, who has submitted an application for certification in accordance with the requirements of R.S. 37:694, and who was duly certified as an engineer intern by the board at a regular meeting.

3. Other Non-EAC/ABET Engineering Graduates. The applicant shall be a graduate of a non-EAC/ABET accredited engineering curriculum of four years or more approved by the board as being of satisfactory standing, who has a specific record of four years or more of verifiable progressive experience obtained subsequent to graduation, on engineering projects of a level and scope satisfactory to the board, who is of good character and reputation, who has passed the written examination in the fundamentals of engineering, who was recommended for certification by a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, and having a personal knowledge of his engineering experience, who has submitted an application for certification in accordance with the requirements of R.S. 37:694, and who was duly certified as an engineer intern by the board at a regular meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:352 (November 1976), amended LR 5:114 (May 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1027 (July 2001), LR 30:

§903. Professional Engineer Licensure

A. The requirements for licensure as a professional engineer under the two alternatives provided in the licensure law are as follows:

1. the applicant for licensure as a professional engineer shall be an engineer intern, or an individual who meets the qualifications to be an engineer intern, who has a verifiable record of four years or more of progressive experience obtained subsequent to meeting the educational and applicable experience qualifications to be an engineer intern on engineering projects of a level and scope satisfactory to the board, who is of good character and reputation, who has passed the written examination in the principles and practice in the discipline of engineering in which licensure is sought, who was recommended for licensure by five personal references, three of whom are professional engineers who have personal knowledge of the applicant's engineering experience and character and ability, and who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board at a regular meeting; or

2. the applicant for licensure as a professional engineer shall be an individual who holds a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that do not conflict with the provisions of the licensure law, and which were of a standard not lower than that specified in the applicable licensure law in effect in Louisiana at the time such license was issued, who is of good character and reputation, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and if the state, territory, or possession, or the District of Columbia, in which he/she is licensed will accept the licenses issued by the board on a comity basis, and who was duly licensed as a professional engineer by the board at a regular meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:350, 352 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), LR 10:804 (October 1984), LR 11:362 (April 1985), LR 19:56 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1028 (July 2001), LR 30:

§905. Temporary Permit to Practice Engineering

A. An individual who is not a resident of and has no established place of business in Louisiana, may be granted a written temporary permit to practice professional engineering when such practice does not exceed 120 consecutive days in any calendar year, provided such individual is licensed to practice engineering in his/her own state, territory, or possession of the United States, or the District of Columbia, in which the requirements and the qualifications for obtaining a license are not lower than those specified in this Chapter, and provided further that before beginning such temporary practice in this state, the individual shall have applied to the board, paid the prescribed fee, and received a temporary permit, and upon the conclusion of such work, he/she shall advise the board as to the period of time that he/she has practiced in the state under such temporary permit.

B. The authority for the executive secretary to issue a temporary permit can only be granted by the board.

C. The fee for a temporary permit shall be equal to the fee paid by an applicant applying for licensure as a professional engineer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:192 (April 1982), amended LR 12:692 (October 1986), LR 16:773 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:286 (April 1996), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1028 (July 2001), LR 30:

§907. Land Surveyor Intern Certification

A. A land surveyor intern shall be either:

1. a graduate holding a baccalaureate degree from a curriculum of four years or more who has completed at least 30 semester credit hours, or the equivalent, in land surveying, mapping, and real property courses approved by the board, who is of good character and reputation, who has passed the written examination in the fundamentals of land surveying, who was recommended for certification by a professional land surveyor holding a valid license to engage in the practice of land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, who has submitted an application for certification in accordance with the requirements of R.S. 37:694, and who was duly certified as a land surveyor intern by the board at a regular meeting; or

2. an individual certified by the board as a land surveyor in training or a land surveyor intern on or before January 1, 1995.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:352 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), LR 10:90 (February 1984), LR 16:773 (September 1990), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1028 (July 2001), LR 30:

§909. Land Surveyor Licensure

A. The requirements for licensure as a professional land surveyor under the two alternatives provided in the licensure law are as follows:

1. an applicant for licensure as a professional land surveyor shall be a land surveyor intern, or an individual who meets the qualifications to be a land surveyor intern, who is of good character and reputation, who has a verifiable

record of four years or more of combined office and field experience in land surveying including two years or more experience in responsible charge of land surveying projects under the supervision of a professional land surveyor, who has passed the oral examination, who has passed the written examination in the principals and practices of land surveying and Louisiana laws of land surveying, and who was recommended for licensure by five personal references (at least three of whom must be professional land surveyors who have personal knowledge of the applicant), who has submitted an application for licensure in accordance with R.S. 37:694, and who was duly licensed as a professional land surveyor by the board at a regular meeting; or

2. the applicant shall be an individual who holds a valid license to engage in the practice of land surveying issued to him/her by the proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that do not conflict with the provisions of the licensure law, who is of good character and reputation, who has passed a written examination on the fundamentals of land surveying, principles and practice of land surveying and Louisiana laws of land surveying, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and if the state, territory, or possession, or the District of Columbia in which he/she is licensed will accept the licenses issued by the board on a comity basis, and who was duly licensed as a professional land surveyor by the board at a regular meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:244 (August 1976), amended LR 2:351 (November 1976), LR 5:114 (May 1979), LR 6:735 (December 1980), LR 7:645 (December 1981), LR 11:362 (April 1985), LR 16:773 (September 1990), LR 19:56 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1029 (July 2001), LR 30:

Chapter 11. Curricula

§1101. Approved Curricula

A. The board shall determine which curricula are to be recognized under the provisions of the licensure law as approved curricula for the licensure of individuals as engineer interns, professional engineers, land surveyor interns, and professional land surveyors.

B. In general, the board will recognize as approved all engineering curricula of four years or more accredited by EAC/ABET. The board may recognize as approved an engineering curriculum that was not accredited at the time of the applicant's graduation, but which became accredited within the following two years.

C. Based on an investigation by a committee of the board, the board may, by a majority vote at a regular meeting, recognize as an approved curriculum a non-accredited engineering curriculum of four years or more from a school of satisfactory standing that does not meet the specifications of §1101.B. The board shall keep a record of the engineering curricula thus approved.

D. The board, by a majority vote at a regular meeting, may approve curricula that contain at least 30 semester credit hours, or the equivalent, of satisfactory land surveying, mapping, and real property courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 5:365 (November 1979), LR 7:646 (December 1981), LR 10:805 (October 1984), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1029 (July 2001), LR 30:

§1103. Other Curricula

A. To qualify for certification as an engineer intern, graduates of non-accredited engineering curricula, must present evidence of experience of such quality and extent that the board believes that the applicant has obtained engineering knowledge and skills at least equivalent to that obtained by education in an accredited four-year engineering curriculum. Curricula must be of four years or more from a college or university having an approved curricula.

B. Non-accredited engineering curricula shall be those curricula of four years or more which are found by the board to be equivalent in content to accredited engineering curricula, including a minimum of 46 semester credit hours of recognized engineering courses, 36 of which shall be advanced level courses usually offered in the junior and senior years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended 7:647 (December 1981), LR 10:805 (October 1984), LR 19:907 (July 1993), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1029 (July 2001), LR 30:

§1105. Engineering Graduate Programs

A. Acceptable engineering graduate programs are those offered by engineering departments which maintain accreditation from EAC/ABET at the basic or advanced level and which require the removal of deficiencies in science, mathematics, engineering science, and engineering design as a prerequisite to the graduate courses; or are those found by the board to be equivalent to such programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended 7:647 (December 1981), LR 10:805 (October 1984), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1029 (July 2001), LR 30:

Chapter 13. Examinations

§1301. General

A. Only individuals of good character and reputation who have received permission from the board will be allowed to take any examination offered by the board. For all examinations, applications must be timely filed with the board.

B. The applicant must present appropriate documents to establish his/her eligibility and identification prior to being admitted to any examination.

C. Timely filing of an application with the board does not assure that an applicant will be permitted to take an examination, or be scheduled for examination on a particular date. To be considered for a specific examination date, the

application should be received at the board office no later than the following number of days prior to a particular examination scheduled by the board: fundamentals of engineering, 150 days; fundamentals of land surveying, 150 days; principles and practice of engineering, 150 days; principles and practice of land surveying and the Louisiana laws of land surveying, 180 days.

D. Examinations in the fundamentals of engineering, fundamentals of land surveying, the principles and practice of engineering, the principles and practice of land surveying and the Louisiana laws of land surveying will be offered at least once a year at times and places designated by the board. Descriptions of typical content of the examinations will be made available to applicants through the office of the National Council of Examiners for Engineering and Surveying (NCEES).

E. Any applicant found to have engaged in conduct which subverts or attempts to subvert the engineering or land surveying examination process may, at the discretion of the board, have his or her scores on the examination withheld and/or declared invalid, have disciplinary action taken as described in R.S. 37:698-700 and/or be subject to the imposition of other appropriate sanctions.

F. The board may require applicants to demonstrate their knowledge of the laws and rules of the board, and the English language. Applicants must be able to speak and write the English language. Proficiency in English may be evidenced by possession of a baccalaureate degree taught exclusively in English, or by passage of both the TOEFL (Test of English as a Foreign Language) paper based exam with a score of 550 or better (213 or better on the TOEFL computer based exam) and the TSE (Test of Spoken English) exam with a score of 45 or better. The TOEFL and TSE representative is TOEFL AND TSE Services, Educational Testing Service, P.O. Box 6151, Princeton, NJ 08541-6151, Telephone: (609) 771-7100. The TOEFL/TSE Code for this agency is 8425. Applicants requesting a waiver from the TOEFL and/or TSE requirements must submit a written request and supporting reasoning to the board. A waiver from the TOEFL and/or TSE requirements may be granted by the board upon receipt of one of the following:

1. a passing score on the Graduate Record Examination (GRE);

2. evidence that a baccalaureate degree has been earned from a Washington Accord approved program; or

3. transcripts which verify the successful completion of six full-time semesters (6 credit hours per semester) toward a graduate engineering degree in the United States.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), LR 16:774 (September 1990), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1030 (July 2001), LR 30:

§1303. Approval to Take the Fundamentals of Engineering Examination

A. Graduating seniors of a four-year accredited engineering curriculum may be permitted to take the examination in the fundamentals of engineering during their last two semesters or last three quarters prior to graduation, or thereafter.

B. Graduates of a four-year engineering curriculum, accredited or non-accredited, may be permitted to take the examination in the fundamentals of engineering.

C. Graduates of a related science or technology curriculum, approved by the board, who have obtained a graduate degree in an engineering curriculum from a college or university having an undergraduate accredited engineering curriculum in the same discipline or sub-discipline may be permitted to take the examination in the fundamentals of engineering.

D. A student enrolled in a graduate accredited engineering curriculum leading to a graduate degree in engineering, who has completed the core courses in engineering fundamentals, may be permitted to take the fundamentals of engineering examination.

E. The board may allow the substitution of a qualifying examination for the fundamentals of engineering examination for any applicant who has an earned doctoral degree in engineering from a college or university having an undergraduate accredited engineering curriculum, or who has taken and passed an equivalent exam approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 4:88 (March 1978), amended LR 5:113 (May 1979), LR 6:735 (December 1980), LR 7:647 (December 1981), LR 10:805 (October 1984), LR 14:449 (July 1988), LR 17:804 (August 1991), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1030 (July 2001), LR 30:

§1305. Approval to Take the Examination in the Principles and Practice of Engineering

A. An applicant who meets the other requirements for licensure as a professional engineer may be permitted to take the examination in the principles and practice of engineering in the discipline in which he/she seeks licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), LR 11:950 (October 1985), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1030 (July 2001), LR 30:

§1307. Approval to Take the Fundamentals of Land Surveying Examination

A. A student in the final two semesters or final three quarters of the bachelor's degree may be permitted to take the fundamentals of land surveying examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1030 (July 2001), LR 30:

§1309. Approval to Take the Examination in the Principles and Practice of Land Surveying and in the Louisiana Laws of Land Surveying

A. An applicant who meets the other requirements for licensure as a professional land surveyor may be permitted to take the examinations in the principles and practice of land surveying and in the Louisiana laws of land surveying.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1030 (July 2001), LR 30:

§1311. Examination for Record Purposes

A. The National Council of Examiners for Engineering and Surveying (NCEES) prepares examinations in the principles and practice of engineering. The board provides the opportunity for engineers who were previously licensed in Louisiana to take the National Council's examination in the discipline of their license without affecting their current licensure status with this board. These examinations are offered at times and places designated by the board. Each applicant will be charged a fee for this service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:114 (May 1979), amended LR 7:647 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1030 (July 2001), LR 30:

§1313. Examination Results

A. The board will specify the minimum passing score for all examinations for certification or licensure of applicants.

B. Applicants will be informed by mail only as to whether they passed or failed an examination. Numerical grades are not available to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:114 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1031 (July 2001), LR 30:

§1315. Re-Examinations

A. An individual who fails an examination is eligible to apply to retake the examination. A request for re-examination must be submitted in writing prior to the deadline for scheduling of the examination.

B. Before an applicant is given approval to retake an examination, he/she may be required to appear before the board, or a committee of the board, for an oral interview/oral examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:353 (November 1976), amended LR 4:516 (December 1978), LR 5:114 (May 1979), LR 7:647 (December 1981), LR 12:692 (October 1986), LR 16:774 (September 1990), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1031 (July 2001), LR 30:

Chapter 15. Experience

§1501. Recognition of Experience

A. The board will not recognize experience acquired by an applicant in violation of the licensure law of any state.

B. In considering applications for licensure by comity, the board may recognize examinations passed before the applicant had accrued sufficient qualifying experience according to Louisiana experience requirements in effect at the time, if:

1. the applicant had been a resident of the state in which he was examined for at least one year prior to the date of the examination; and

2. the examination was passed in accordance with that state's laws and regulations in effect at the time; and

3. the experience deficiency according to Louisiana experience requirements has been satisfied as of the date of the application to the Louisiana board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 7:647 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1031 (July 2001), LR 30:

§1503. Graduate-Level Experience

A. Beginning on January 1, 2005, successful completion of graduate study leading to a master's degree in engineering which has followed a baccalaureate degree in engineering may be used for credit for one year's experience. If the Ph.D. in engineering is completed under the same conditions, two years' total experience may be credited. The two-years' credit includes the one year for the master's degree. If the Ph.D. is obtained without the master's degree, the credit for experience may be two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:502 (December 1977), amended LR 5:112 (May 1979), LR 6:735 (December 1980), LR 7:647 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1031 (July 2001), LR 30:

§1505. Work Experience

A. No applicant will be allowed more than one year of experience for work and education during any consecutive 12-month period.

B. Foreign work experience may be allowed provided that at least two years of experience is obtained under the supervision of a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia. Otherwise, two years of the required experience shall be obtained in a state, territory, or possession of the United States, or the District of Columbia.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 7:647 (December 1981), amended by the Department

of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1031 (July 2001), LR 30:

§1507. Experience Subsequent to Degree

A. Only experience obtained subsequent to completion of a degree specified in the requirements for qualifying as an engineer intern will be considered as engineering experience.

B. Up to one year of an engineering nature may be creditable prior to graduation, if obtained through a college or university-sponsored co-op program as part of a four-year engineering program approved by the board, and only after completion of the first half of the program. If the co-op work is full-time work, the amount of credit given is equal to the time worked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 7:647 (December 1981), LR 11:362 (April 1985), LR 27:1031 (July 2001), LR 30:

§1509. Experience Should Not Be Anticipated

A. Experience should not be anticipated. The experience should be gained by the time of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1031 (July 2001), amended LR 30:

§1511. Experience from Engineering Research

A. Experience gained in engineering research and design projects by members of an engineering faculty where the curriculum if approved by the board is creditable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1031 (July 2001), amended LR 30:

§1513. Teaching Experience

A. Engineering. Teaching experience, to be creditable, must be in engineering or engineering-related courses at an advanced level in a college or university offering an engineering curriculum of four years or more that is approved by the board.

B. Land Surveying. Teaching experience to be creditable must be at an advanced level in a land surveying curriculum approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1032 (July 2001), amended LR 30:

§1515. Progressive Experience

A. Engineering. Experience must be progressive on engineering projects to indicate that it is of increasing quality and requiring greater responsibility.

B. Land Surveying. Experience must be progressive on land surveying projects to indicate that it is of increasing quality and requiring greater responsibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1032 (July 2001), amended LR 30:

§1517. Knowledge Required

A. Experience should include a knowledge of engineering mathematics, physical and applied science, properties of materials, and the fundamental principles of engineering design.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1032 (July 2001), amended LR 30:

§1519. Applied Experience

A. Experience should include application of engineering principles in the practical solution of engineering problems.

B. Professional land surveyor applicants must demonstrate a substantial portion of their experience was spent in charge of work related to property conveyance and/or boundary line determination.

C. Professional land surveyor applicants must demonstrate adequate experience in the technical field aspects of the profession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1032 (July 2001), amended LR 30:

§1521. Experience Acquired in the Armed Services

A. Engineering. Engineering experience gained in the armed services, to be creditable, must be of a character equivalent to that which would have been gained in the civilian sector doing similar work. Normally, it would be expected that the applicant while in the armed services served in an engineering or engineering-related group.

B. Land Surveying. Land surveying experience gained in the armed services, to be creditable, must be of a character equivalent to that which would have been gained in the civilian sector doing similar work. Normally, it would be expected that the applicant while in the armed services served in a land surveying group.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1032 (July 2001), amended LR 30:

§1523. Sales Experience

A. For sales experience to be creditable, it must be demonstrated that engineering principles were required and used in gaining experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1032 (July 2001), amended LR 30:

§1525. Experience in Construction

A. Experience in construction, to be creditable, must demonstrate the application of engineering principles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1032 (July 2001), amended LR 30:

§1527. Supervision by Licensed Professional

A. Engineering. Experience should be gained under the supervision of a professional engineer holding a valid license to engage in the practice of engineering issued to

him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, or, if not, an explanation shall be made showing why the experience should be considered acceptable.

B. Land Surveying. Experience should be gained under the supervision of a professional land surveyor holding a valid license to engage in the practice of land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, or, if not, an explanation shall be made showing why the experience should be considered acceptable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1032 (July 2001), amended LR 30:

Chapter 17. Applications and Fees

§1701. Applications

A. Applications for certification as an engineer intern or land surveyor intern shall be completed on the most current forms developed by the board. The application shall contain statements showing the applicant's qualifications, and a recommendation for certification by a professional engineer or professional land surveyor holding a valid license to engage in the practice of engineering or land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, as appropriate. Furthermore, applications for certification as an engineer intern submitted by graduates of a non-accredited engineering curriculum shall also contain a recommendation for certification by a professional engineer (holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia) having personal knowledge of the applicant's engineering experience.

B. Applications for licensure as a professional engineer or professional land surveyor shall be completed on the most current forms developed by the board. The application shall contain statements showing the applicant's qualifications, and the names and addresses of five personal references. Three or more of the five personal references furnished by an applicant for licensure as a professional engineer shall be professional engineers holding valid licenses to engage in the practice of engineering issued to them by proper authority of a state, territory, or possession of the United States, or the District of Columbia. Three or more of the five personal references furnished by an applicant for licensure as a professional land surveyor shall be professional land surveyors holding valid licenses to engage in the practice of land surveying issued to them by proper authority of a state, territory, or possession of the United States, or the District of Columbia. Engineering experience shall be verified by a person having direct knowledge of the quality of the applicant's engineering work, preferably a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia. Land surveying experience shall be verified by a person having direct knowledge of the quality of the applicant's land surveying work, preferably a professional land surveyor holding a valid license to engage in the practice of land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia.

C. Applicants who have attended college shall have certified transcripts of all college work forwarded by the registrar of each college directly to the office of the board.

D. For college credits and/or college degrees earned outside of the United States, applicants may be required to submit a course-by-course analysis and equivalency in terms of United States courses and credits from an organization approved by the board. The applicant will be responsible for fees connected with this service.

E. Requests for licensure in more than one discipline must be submitted on separate application forms.

F. An application for licensure may be considered incomplete by the board. The applicant may be denied admission to written examinations until the information submitted in the application has been investigated and replies have been received from references. The board may require additional information and documents it considers necessary for the proper evaluation of an application.

G. An application requiring an examination for certification or licensure must be timely filed with the board office (§1301).

H. Applicant files may be destroyed at the discretion of the executive secretary no earlier than five years after original submission of the application.

I. Applications for licensure of an engineering firm and/or land surveying firm must be typed on the form provided by the board, must be completed in their entirety, and must contain the name, license number, and signature of all Louisiana professional engineers and/or professional land surveyors designated as supervising professionals in accordance with Chapter 23 (Firms). The name and signature of an officer of the firm duly authorized to make certifications on behalf of the firm must appear in the specified location of the form. If the applicant is a corporation, a copy of the corporation's Louisiana Certificate of Incorporation (domestic) or Certificate of Authority (foreign) must accompany the application. If the applicant is a limited liability company, a copy of the company's Louisiana Certificate of Organization (domestic) or Certificate of Authority (foreign) must accompany the application. The board will license firms that are corporations using only the name as reflected on the corporation's Certificate of Authority or the Certificate of Incorporation. The board will license firms that are limited liability companies using only the name as reflected on the company's Certificate of Authority or the Certificate of Organization. Designated supervising professionals for the firm must also successfully complete a Louisiana Laws and Rules Examination prior to licensure of the firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 5:365 (November 1979), LR 7:646 (December 1981), LR 11:362 (April 1985), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1032 (July 2001), LR 30:

§1703. Fees

A. Application fees, license fees, certification fees, renewal fees and all other fees shall be established by the

board by a majority vote at a regular meeting. The fees so established shall be in accordance with the limits specified in the licensure law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:503 (December 1977), amended LR 5:365 (November 1979), LR 7:646 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1033 (July 2001), LR 30:

Chapter 19. Disciplines of Engineering

§1901. Disciplines

A. The licensure law provides that professional engineers will be issued licenses by the board as a Professional Engineer and that the board shall list a professional engineer in one or more of the disciplines of engineering approved by the National Council of Examiners for Engineering and Surveying (NCEES).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:118 (May 1979), amended LR 5:365 (November 1976), LR 7:646 (December 1982), LR 11:362 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1033 (July 2001), LR 30:

§1903. Accredited Specialties (EAC/ABET)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:646 (December 1981), amended LR 10:805 (October 1984), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1033 (July 2001), repealed LR 30:

§1905. Additional Disciplines

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:646 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1033 (July 2001), repealed LR 30:

§1907. Disciplines Criteria

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:646 (December 1981), amended LR 10:805 (October 1984), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1033 (July 2001), repealed LR 30:

§1909. Licensure in a Newly Recognized Discipline

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:646 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1034 (July 2001), repealed LR 30:

§1911. Limitations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:646 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1034 (July 2001), repealed LR 30:

Chapter 21. Certificates of Licensure and Certification of Individuals or Firms

§2101. Expiration and Renewals

A. Licenses and certificates of individuals or firms shall expire on the date specified on the renewal certificate and/or as shown on the board's records and shall become invalid after that date unless renewed within 120 days. After that period, the former licensee or certificate holder may apply to the board to reactivate his/her former license or certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended LR 6:417 (June 1983), LR 11:363 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1035 (July 2001), LR 30:

§2103. Licensure Status

Active Status? the licensure status which exists for a licensee of the board who has complied with all the licensure and licensure renewal requirements of the board.

Expired Status? the licensure status which exists for a licensee of the board who has failed to properly renew licensure as required in R.S. 37:697. A licensee in an *expired status* can no longer practice or offer to practice professional engineering or professional land surveying in Louisiana.

Inactive Status? the licensure status which exists for an individual licensee of the board who has chosen not to practice or offer to practice professional engineering and/or professional land surveying in Louisiana and who has indicated that fact on the board biennial licensure renewal form. This licensee can represent himself/herself to the public as a *P.E. Inactive*, or a *P.L.S. Inactive*, but cannot otherwise practice or offer to practice professional engineering and/or professional land surveying in Louisiana.

Retired Status? the licensure status which exists for an individual licensee of the board who has chosen not to practice or offer to practice professional engineering and/or professional land surveying in Louisiana and who has indicated that fact on the board biennial licensure renewal form. To qualify for the *retired status*, the licensee must be at least 70 years of age or have been a licensee of the board for at least 35 years. The renewal fee for the *retired status* shall be one-half of the current renewal fee for the *active status*. This licensee can represent himself/herself to the public as a *P.E. Retired*, or a *P.L.S. Retired*, but cannot otherwise

practice or offer to practice professional engineering and/or professional land surveying in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2151 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1035 (July 2001), LR 30:

Chapter 23. Firms

§2301. General

A. The following rules with regard to firms providing or offering to provide professional services shall apply equally to domestic or foreign firms, partnerships, associations, cooperatives, ventures, corporations, limited liability companies, limited liability partnerships, and any other entities, unless otherwise provided:

1. use of the term *professional services* in this Chapter will refer to either professional engineering services or professional land surveying services; and

2. use of the term *licensed professional* in this Chapter will refer to either a professional engineer or a professional land surveyor duly licensed in Louisiana.

B. A firm must be licensed with the board before it may provide or offer to provide professional services in the state of Louisiana.

1. A firm which has in its title the word *engineering* or *surveying* or any derivative thereof shall be construed to be offering to provide professional services and therefore must be licensed with the board before doing business in the state of Louisiana, unless it has in its title modifying or explanatory words which would, in their ordinary meaning, negate the inference of the professional practice of engineering or land surveying.

2. A firm may provide or offer to provide both professional engineering and professional land surveying services; provided, however, that the firm must qualify separately as an engineering firm and as a land surveying firm, and the requirements of this Chapter will apply separately to providing or offering to provide professional engineering services and professional land surveying services.

3. A firm may provide or offer to provide both professional services and related licensed professional services, such as architecture and landscape architecture; provided, however, the firm must be licensed under and comply with the provisions of this Chapter.

C. Unless otherwise provided, non-firm individual proprietorships which bear the full name of the owner who is a licensed professional are exempt from the application of this Chapter. Such proprietorships are not required to be licensed as engineering or land surveying firms with the board. Non-firm individual proprietorships that do not bear the full name of the owner who is a licensed professional must be licensed with the board as an engineering or land surveying firm and must comply with all the provisions of this Chapter.

D. Joint ventures that provide or offer to provide professional services will not be required to be licensed as separate entities. Nevertheless, any firm (including those non-firm individual proprietorships otherwise excluded under §2301.C) that provides or offers to provide professional services in conjunction with its participation in a joint venture can do so only if it complies with the provisions of these rules. In addition, any supervising professional who participates in a joint venture shall be responsible for assuring that all professional services performed by the joint venture are rendered in conformity with the provisions of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:502 (December 1977), amended LR 5:116 (May 1979), LR 8:191 (April 1982), LR 16:774 (September 1990), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1035 (July 2001), LR 30:

§2305. Supervising Professional

A.1. In the case of firms providing or offering to provide professional services in the state of Louisiana, all such professional services shall be executed under the responsible charge of a licensed professional, and designated by the firm as a supervising professional. Such licensed professional shall be an active employee of the firm:

a. whose primary employment is with the firm on a full-time basis; or

b. whose secondary employment is with the firm, provided the firm is totally owned by one or more of the supervising professionals whose license is used to qualify the firm for licensure.

2. When the work consists of plans, designs, specifications, reports or maps, such licensed professional shall impress them with his/her seal or stamp as required by law. The appearance of a seal or stamp on a document of any type shall constitute a representation that such document was prepared by the licensed professional or under his/her responsible charge.

B. Nothing in these rules shall be construed to give a professional engineer the power to practice professional land surveying, unless that professional engineer is licensed as a professional land surveyor.

C. Nothing in these rules shall be construed to give a professional land surveyor the power to practice professional engineering, unless that professional land surveyor is licensed as a professional engineer.

D. It is the intent of these rules to guarantee that all professional services provided by a licensed firm is performed under the responsible charge of or by a licensed professional. To this end, the board may also require a licensed firm to identify those licensed professionals who will be providing professional services. In addition, the board may require the individual licensee identified by the licensed firm as the supervising professional to acknowledge this responsibility, and assume the responsibility of informing the board in the event of a change of employment. No licensed professional shall be designated as a supervising professional by more than one firm, except in the case of secondary employment by a firm which is totally owned by one or more of the supervising professionals whose license is used to qualify the firm for licensure. A failure to comply with any of the provisions of this rule may subject both the licensed firm and the licensed professional to disciplinary action by the board.

E. Compliance with the above rules will not be met by a contractual relationship between the firm and a licensed professional or a firm of licensed professionals in which such licensed professional or firm of licensed professionals is available on a consultative basis. Nor will it be considered compliance if a licensed professional is related to the firm solely in a nominal or inactive capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:115 (May 1979), amended LR 8:191 (April 1982), LR 10:343 (April 1984), LR 11:362 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1036 (July 2001), LR 30:

§2307. Professional Identification

A. Letterheads, business cards, advertisements and other similar identifying items issued by firms providing or offering to provide professional services in the state of Louisiana shall reflect the name of the supervising professional in responsible charge and/or the license number of the firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:116 (May 1979), amended LR 8:191 (April 1982), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1036 (July 2001), LR 30:

§2309. Enforcement

A. In the event that a firm providing or offering to provide professional services within the state of Louisiana shall fail to comply with these rules, the board, after investigation of the facts, may take whatever action is necessary against such firm to require compliance or to enjoin further practice or offers to practice professional engineering or professional land surveying.

B. Any firm that is licensed by the board is subject to all disciplinary provisions provided for in the licensure law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:502 (December 1977), amended LR 5:116 (May 1979), LR 8:191 (April 1982), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1036 (July 2001), LR 30:

Chapter 25. Professional Conduct

§2501. Scope; Knowledge; Definition of Licensee

A. In order to safeguard life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity and practice, the following rules of professional conduct shall be binding on every licensee. These rules of professional conduct deal primarily with the relationship between licensees and the public, and should not be construed as a substitute for codes of ethics of the various professional and technical societies.

B. All licensees under the licensure law are charged with having knowledge of the existence of these rules of professional conduct, and shall be deemed to be familiar with their provisions and to understand them.

C. In this Chapter, the term *licensee* shall mean any professional engineer, professional land surveyor, engineer intern, land surveyor intern, or firm holding a license or certificate issued by this board.

D. A licensee possessing personal knowledge of a violation of the licensure law or the board rules found in this Chapter shall report such knowledge to the board in writing and shall cooperate with the board in furnishing such further information or assistance as it may require. The licensee shall timely respond to all inquiries and correspondence from the board and shall timely claim correspondence from the U.S. Postal Service, or other delivery service, sent to the licensee, from the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 4:299 (August 1978), amended LR 7:648 (December 1981), LR 16:776 (September 1990), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1036 (July 2001), LR 30:

§2503. Licensees

A. Licensees shall hold paramount the safety, health, property and welfare of the public in the performance of their professional duties.

B. Licensees shall at all times recognize that their primary obligation is to protect the safety, health, property, and welfare of the public. If their professional judgment is overruled by nontechnical authority, they will clearly point out the consequences, notifying the proper authority of any observed conditions which endanger public safety, health, property and welfare.

C. Licensees shall approve and seal only those design documents and surveys which are safe for public health, property, and welfare, which are complete and accurate, which are in conformity with accepted engineering and land-surveying standards or practice, and which conform to applicable laws and ordinances.

1. Licensees shall comply fully with Chapter 27 (Use of Seals).

2. Except as permitted by §2701.A.3.b.ii.(a), licensees shall not seal the work of or take the professional responsibility for any documents related to engineering or land surveying not performed by the licensee or under the licensee's responsible charge.

3. Licensees may not accept the responsibility for, nor review, revise, sign, or seal drawings when such plans are begun by persons not properly licensed and qualified; or do any other act to enable either such licensees or the project owners, directly or indirectly, to evade the requirements of the licensure law.

D. Licensees shall submit to a client only that work (plans, specifications, reports, and other documents) prepared by the licensee or by an employee (or subordinate) of the licensee (which is under the licensee's responsible charge); however, licensees, as a third party, may complete, correct, revise, or add to the work of another licensee or other related design professional, if allowed by Louisiana statutes, when engaged to do so by a client, provided:

1. the client furnishes the documentation of all such work submitted to him by the previous licensee(s), or their related design professional(s);

2. the previous licensees or other related design professionals are notified in writing by the licensee of the engagement referred to herein immediately upon acceptance of the engagement; and

3. all work completed, corrected, revised, or added to shall contain a notation describing the work done by the licensee now in responsible charge, shall have the seal and signature of the licensee affixed thereto, the date of execution, and shall become the responsibility of the licensee.

E. Licensees shall be objective and truthful in all professional reports, statements or testimony. The licensee shall include all relevant and pertinent information in such reports, statements or testimony.

F. When serving as an expert or technical witness before any court, commission, or other tribunal, licensees shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the licensee's testimony.

G. Licensees shall issue no statement, criticisms, or arguments on engineering or land surveying matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the licensee has prefaced the comment by explicitly identifying the licensee's name, by disclosing the identities of any party or parties on whose behalf the licensee is speaking, and by revealing the existence of any pecuniary interest the licensee may have in the instant matters.

H. Licensees shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another engineer or land surveyor, nor indiscriminately criticize another engineer or land surveyor's work in public. If the licensee believes that another engineer or land surveyor is guilty of misconduct or illegal practice, such information shall be presented to the board in a manner consistent with the requirement of those rules for reporting personal knowledge of rule or statute violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended LR 11:950 (October 1985), LR 16:776 (September 1990), LR 17:273 (March 1991), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1037 (July 2001), LR 30:

§2505. Services

A. Licensees shall perform services only in the area of their competence.

B. Licensees shall undertake assignments only when qualified by education or experience in the specific technical fields of engineering or land surveying involved.

C. Licensees shall not affix their signatures or seals to any plans or documents dealing with subject matters in which they lack competence, nor to any such plan or document not prepared under their responsible charge. Responsible charge requires a licensee or employee to carry out all client contacts, provide internal and external financial control, oversee employee training, and exercise control and supervision over all job requirements to include research, planning, design, field supervision and work product review. A licensee shall not contract with a non-licensed individual to provide these professional services. Research, such as title searches and soil testing, may be contracted to a non-licensed individual, provided the licensee reviews the work. The professional engineer and professional land surveyor may affix their seal and signature to drawings and documents depicting the work of two or more professionals provided that a note under the seal designates the specific subject matter for which each is responsible.

D. Licensees may accept an assignment outside of their areas of competence to the extent that their services are restricted to those phases of the project in which they are qualified, and to the extent that they are satisfied that all other phases of such project will be performed or supervised by licensed, qualified associates, consultants, or employees, in which case they may then sign and seal the documents for the total project.

E. In the event a question arises as to the competence of a licensee in a specific technical field which cannot be otherwise resolved to the board's satisfaction, the board, either upon request of the licensee or on its own volition, shall admit the licensee to an appropriate examination.

F. Engineers and construction (design-build) entities that meet all statutory requirements in this jurisdiction may offer a combination of engineering and construction services, provided that:

1. the entity obtains an authorization certificate from the board by filing, on a form approved by the board, a written disclosure on which it shall designate an engineer licensed in this jurisdiction to be in responsible charge of all engineering services offered and/or provided by the entity;

2. an engineer licensed in this jurisdiction and associated with such entity participates in the material aspects of the offering of engineering services with respect to any project;

3. one or more of the officers, partners, or members of the entity, and all personnel of such entity who act on its behalf as engineers, are licensed as engineers in this jurisdiction; and

4. the engineer(s) competent in the required specific areas of practice and licensed in this jurisdiction shall be in responsible charge of all engineering design and be directly involved during the construct of the project;

5. in the event such engineer's services are terminated with respect to the project, the entity and the engineer shall, within five business days, notify the board of such termination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1037 (July 2001), LR 30:

§2507. Conflicts of Interest

A. Licensees shall further act in professional matters for each employer or client as faithful agents or trustees and shall avoid conflicts of interest.

B. Licensees shall disclose all known or potential conflicts of interest to their employers or clients by promptly informing them of any business association, interest, or other

circumstances which could influence their professional judgment or the quality of their professional services.

C. Licensees shall not accept compensation, financial or otherwise, from more than one party for professional services on the same project, or for professional services pertaining to the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties.

D. Licensees shall not solicit or accept, directly or indirectly, benefits of any substantial nature or significant gratuity, from any supplier of materials or equipment, or from contractors, their agents, servants or employees or from any other party dealing with the client or employer of the licensee in connection with any project on which the licensee is performing or has contracted to perform engineering or land surveying services.

E. When in public service as a member, advisor or employee of a governmental body or agency, or under contract to provide consultation, advice, technical reviews and recommendations to a governmental body or agency, licensees shall not participate in considerations or actions with respect to professional services provided by them or their organization to that governmental body or agency.

F. Licensees shall not solicit nor accept an engineering and/or land surveying contract from a governmental body of which a principal or officer of the licensee's firm serves as a member, except upon public disclosure of all pertinent facts and circumstances and consent of appropriate public authority.

G. Licensees shall not attempt to supplant another engineer or land surveyor in a particular engagement after becoming aware that the other has been selected for the engagement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1038 (July 2001), LR 30:

§2509. Improper Solicitation

A. Licensees shall avoid improper solicitation of professional employment or services.

B. Licensees shall not falsify or permit:

1. misrepresentation of the licensee or any associate's academic or professional qualifications;

2. misrepresentation or exaggeration of the licensees' degree of responsibility in or for the subject matter of prior assignments; or

3. misrepresentation of pertinent facts concerning employers, employees, associates or joint ventures, of the licensees' or their firm's past accomplishments, with the intent and purpose of enhancing their qualifications and their work.

C. Licensees shall not pay nor offer to pay, directly or indirectly, any commission, or gift, or other valuable consideration in order to secure work, except under the following circumstances:

1. securing salaried positions through employment agencies; or

2. as a bona fide employee, or a bona fide established commercial marketing agency retained by them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1038 (July 2001), LR 30:

§2511. Conduct of Advertising

A. Licensees shall not make exaggerated, misleading, deceptive or false statements or claims about professional qualifications, experience or performance in brochures, correspondence, listings, or other public communications.

B. The prohibitions listed in Subsection A include, but are not limited to:

1. the use of statements containing a material misrepresentation of fact;

2. omitting a material fact necessary to keep the statement from being misleading;

3. the use of statements intended or likely to create an unjustified expectation; and

4. the use of statements containing a prediction of future success.

C. Consistent with the foregoing, licensees may advertise for recruitment of personnel.

D. Consistent with the foregoing, licensees may prepare articles for the lay or technical press. Such articles shall not imply credit to the author for work performed by others.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1038 (July 2001), amended LR 30:

Chapter 27. Use of Seals

§2701. Seal and Signature

A. The following rules for the use of seals to identify work performed by a professional engineer or professional land surveyor shall be binding on every licensee.

1. Seal Possession

a. Each professional engineer or professional land surveyor, upon licensure, shall obtain an official seal.

i. Firms are not authorized to possess seals.

ii. In the case of a temporary permit issued to a licensee of another state, territory, or possession of the United States, or the District of Columbia, the licensee shall affix the seal of his/her jurisdiction of licensure, his/her signature, the date of execution, and his/her Louisiana temporary permit number to all of his/her work.

2. Seal Design and Signature Requirements

a. The design of the seal shall have the following minimum information:

i. State of Louisiana;

ii. licensee's name;

iii. license number;

iv. contain the words "Professional Engineer" or "Professional Engineer in _____ Engineering," or "Professional Land Surveyor."

Seals issued prior to promulgation of these rules may use the word "registered" in lieu of "license". If a seal is replaced, the new seal shall use the word "license" in lieu of "registered".

b. Indicated below is a sample of the seal design authorized by the board.

c. Seals of two sizes are acceptable:

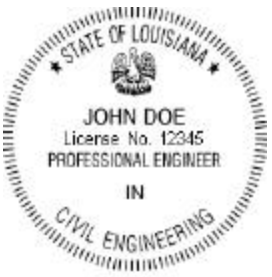
i. 1-5/8 inch seal commonly used in pocket seals; and

ii. 2-inch seal commonly used in desk seals.

d. Rubber seals of the same design and size are acceptable for use.

e. Computer generated seals of the same design and size may be used on final original drawings, provided that a handwritten signature is placed adjacent to or across the seal and the date is written below the seal.

f. A seal must be accompanied by the licensee's signature and date. Electronic signatures are not authorized except for electronic transmission of work as stated herein below.



3. Seal Responsibility

a. The application of the licensee's seal, signature, and date shall constitute certification that the work thereon was done by the licensee or under his/her responsible charge. The licensee shall be personally and professionally responsible and accountable for the care, custody, control and use of his/her seal, professional signature and identification. A seal which has been lost, misplaced or stolen shall, upon discovery of its loss, be reported immediately to the board by the licensee. The board may invalidate the licensure number of said licensee, if it deems this necessary, and issue another licensure number to the licensee.

b. Responsible Charge

i. Plans, specifications, drawings, reports or other documents will be deemed to have been prepared under the responsible charge of a licensee only when:

(a). the client or any public or governmental agency requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the licensee or the licensee's employee as long as the employee works in the licensee's place(s) of business;

(b). the licensee supervises the initial preparation of the plans, specifications, drawings, reports or other documents and has continued input into their preparation prior to their completion;

(c). the licensee reviews the final plans, specifications, drawings, reports or other documents; and

(d). the licensee has the authority to, and does make any necessary and appropriate changes to the final plans, specifications, drawings, reports or other documents.

(i). If the plans, specifications, drawings, reports, or other such documents are prepared outside the licensee's office, the licensee shall maintain all evidence of the licensee's responsible charge including correspondence, time records, check prints, telephone logs, site visit logs, research done for project, calculations, changes, and all written agreements with any persons preparing the documents outside of the licensee's office accepting professional responsibility for such work.

(ii). A licensee failing to maintain written documentation of the items set forth above, when such are applicable, shall be considered to be in violation of R.S. 37:698(A)(6), and the licensee shall be subject to the disciplinary action procedure as set forth in the licensure law.

ii. No licensee shall affix his/her seal or signature to reports, plats, sketches, working drawings, specifications, design calculations, or other engineering and land surveying documents developed by others not under his/her responsible charge and not subject to the authority of that licensee, except:

(a). in the case of an individual licensee checking the work of and taking the professional responsibility for an out-of-state individual licensee, the Louisiana licensee shall completely check and have responsible charge of the design. Such responsible charge shall include possession of the sealed and signed reproducible construction drawings, with complete signed and sealed design calculations indicating all changes in design;

(b). certification of standard design plans which are initially prepared and sealed by a professional engineer properly licensed in the jurisdiction of origin of such plans. Standard design plans may then be reviewed by a Louisiana resident professional engineer for code conformance, design adequacy, and site adaption for the specific application within Louisiana. The professional engineer licensed in Louisiana assumes responsibility for such standard designs. Standard plans, which bear the seal of a professional engineer licensed in another state, territory, or possession of the United States, or the District of Columbia, shall be sealed by the Louisiana resident professional engineer who is assuming responsibility. In addition to the seal, a statement shall be included as follows:

"These plans have been properly examined by the undersigned. I have determined that they comply with existing local Louisiana codes, and have been properly site adapted to use in this area."

iii. No licensee shall affix his/her seal or signature to documents having titles or identities excluding the licensee's name unless:

(a). such documents were indeed developed by the licensee under the licensee's responsible charge;

(b). the licensee shall exercise full authority to determine his/her development; and

(c). except as set forth in §2701.A.3.b.i.(a).

4. Seal Use

a. Completed Work

i. The licensee shall affix his/her seal, sign his/her name, and place the date of execution on all engineering and land surveying documents that have been issued by the licensee to a client or any public or governmental agency as completed work.

(a). In the case of a temporary permit issued to a licensee of another state, territory, or possession of the United States, or the District of Columbia, the licensee shall affix the seal of his/her jurisdiction of licensure, his/her signature, the date of execution, and his/her Louisiana temporary permit number to all of his/her work.

ii. Drawings and Plats

(a). In the case of multiple sealings, the first sheet or title page shall be sealed and signed by the licensee or licensees in responsible charge. In addition, each sheet shall be sealed by the licensee or licensees responsible for each sheet.

(b). In the case of a firm, each sheet shall be sealed and signed by the licensee or licensees responsible for that sheet and the licensee(s) in responsible charge shall sign and seal the title page or first sheet.

iii. Specifications, Reports, Design Calculations and Information

(a). In the case of specifications or reports of multiple pages, the first sheet or title page of each document shall be sealed and signed by the licensee or licensees involved. Subsequent revisions shall be dated and initialed by the licensee in responsible charge whose seal and signature appears on the first sheet or title page.

(b). In the case of a firm, the licensee in responsible charge shall sign and seal the title page or first sheet.

b. Preliminary Work

i. All preliminary documents, so marked in large bold letters, shall contain a statement that the documents are not to be used for construction, bidding, recordation, conveyance, sales, or as the basis for the issuance of a permit. Preliminary documents are not required to have the licensee's seal and signature affixed, but must bear the name and licensure number of the licensee, and the firm's name, if applicable.

c. Exempt Work

i. No seal, signature nor date shall be required in any of the following situations:

(a). on any sewage facility project in which the estimated number of gallons of sewage affected does not exceed 3000 per day, as calculated by agency engineers reviewing the project;

(b). on any water facility project in which the estimated number of gallons of water affected does not exceed 3000 per day, as calculated by agency engineers reviewing the project; provided that such project does not cause a change in treatment, chemical addition, or any other process affecting either the quality or quantity of water being produced;

(c). on any project for the construction of individual/private water wells;

(d). on any project involving both water and sewage facilities, provided that the estimated number of gallons of water affected does not exceed 3000 per day nor the estimated number of gallons of sewage affected does not exceed 3000 per day, as calculated by agency engineers reviewing the project; or

(e). in-kind replacement of water or sewage facilities in which the estimated number of gallons of water affected does not exceed 3000 per day and the estimated number of gallons of sewage affected does not exceed 3000 per day, as calculated by agency engineers reviewing the project.

5. Electronic Transmission

a. Drawings, specifications, plans, reports or other documents which require a seal may be transmitted electronically provided the seal and signature of the licensee is transmitted in a secure mode that precludes the seal and signature being produced or modified. Drawings, reports or documents which are signed using a digital signature as defined in the rules shall contain the authentication procedure and a list of the hardware, software, and parameters used to prepare the document(s).

b. Drawings, specifications, plans, reports or other documents which do not require a seal may be transmitted electronically but shall have the generated seal, if any, removed before transmitting and shall have the following inserted in lieu of the signature and date:

"This document originally issued and sealed by (name of licensee number and "date of sealing"). This document should not be considered a certified document."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:192 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:287 (April 1996), LR 23:869 (July 1998), amended by the Louisiana Legislature, House Concurrent Resolution Number 2 of the 1998 First Extraordinary Session, LR 24:1207, repromulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 25:1525 (August 1999), amended LR 27:1039 (July 2001), LR 30:

Chapter 29. Minimum Standards for Property Boundary Surveys

§2901. General

A. The following minimum standards of practice for land surveying in the state of Louisiana have been adopted to help ensure that surveys are performed in accordance with acceptable procedures.

B. These standards are set forth to solely provide a means by which professional performance can be assessed by the board and to enable the surveying profession as a whole to better protect the safety, health, and welfare of the

public. It should be recognized that surveying practices now in place may vary from one region of the state to another, and these practices should be evaluated when at variance with these standards.

C. It is intended that these be recognized as minimum standards of practice and that they not be relied upon by the professional land surveyor as a substitute for the exercise of proper individual skill, professional discretion, and good judgment in fulfilling the legal and/or contractual requirements of any property boundary survey.

D. When in the professional land surveyor's opinion, special conditions exist that effectively prevent the survey from meeting these minimum standards, the special conditions and any necessary deviation from the standards shall be noted upon the drawing. It shall be a violation of this rule to use special conditions to circumvent the intent and purpose of these minimum standards.

E. A property boundary survey shall only be performed by persons qualified to practice land surveying and licensed in accordance with the provisions of the licensure law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1064 (December 1990), amended LR 22:713 (August 1996), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1042 (July 2001), LR 30:

§2903. Definitions

A. Any terms not specifically defined herein shall be as defined in the most current publication of *Definitions of Surveying and Associated Terms* as published by the American Congress on Surveying and Mapping. For the purpose of this Chapter, all the definitions listed that differ from any other source are to be interpreted as written herein.

Client? the person with whom the contract for work is made. This may, or may not be the owner.

Corner? a point on a land boundary, at which two or more boundary lines meet. Not the same as monument, which refers to the physical evidence of the corner's location on the ground.

Deed? an instrument in writing which, when executed and delivered, conveys an estate in real property or interest therein.

Description, Legal? a written description usually contained in an act of conveyance, judgment of possession, or recognized by law which definitely locates property by metes and bounds or by reference to government surveys, coordinate systems or recorded maps; a description which is sufficient to locate the property without oral testimony.

Description, Metes and Bounds? a description of a parcel of land by reference to course and distances around the tract, or by reference to natural or record monuments.

Encroachment? any structure or obstruction which intrudes upon, invades or trespasses upon the property of another.

May? when used means that a choice on the part of the land surveyor is allowed.

Monument? a physical structure which marks the location of a corner or other survey point. In public-land surveys, the term *corner* is employed to denote a point determined by the surveying process, whereas the *monument* is the physical structure erected to mark the corner point upon the earth's surface. Monument and corner are not synonymous, though the two terms are often used in the same sense.

Positional Accuracy? the difference between the actual position of a monument and the position as reported on the plat.

Positional Tolerance? the distance that any monument may be mislocated in relation to any other monument cited in the survey.

Prescription? title obtained in law by long possession. Occupancy for the period prescribed by the Louisiana Civil Code, as sufficient to bar an action for the recovery of the property, gives title by prescription.

Right of Way? any strip or area of land, including surface, overhead, or underground granted by deed or easement for construction and maintenance according to the designated use.

Servitude? a nonpossessing interest held by one person in land of another whereby the first person is accorded partial use of such land for a specific purpose. A servitude restricts but does not abridge the rights of the fee owner to the use and enjoyment of his land. The term easement is often used interchangeably with servitude and means the same thing.

Shall? the subject is imperative or mandatory and must be done by the land surveyor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1064 (December 1990), amended LR 22:713 (August 1996), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1042 (July 2001), LR 30:

§2905. Classification of Surveys

A. Presented below are categories which define the degree of accuracy which should be attained for surveys performed in Louisiana. These classifications are based upon the purposes for which the property is being used at the time the survey is performed and any proposed developments which are disclosed by the client. Refer to this Chapter for accuracy standards for each of the following classes of surveys.

1. Class A Surveys. Surveys which require maximum surveying accuracy. This includes, but is not limited to, surveys of urban business district properties and highly developed commercial properties.

2. Class B Surveys. Surveys of properties which justify a high degree of surveying accuracy. This includes, but is not limited to, surveys of commercial properties and higher priced residential properties located outside urban business districts and highly developed commercial areas.

3. Class C Surveys. Surveys of residential and suburban areas. This includes, but is not limited to, surveys of residential areas which cannot be classified as Class A or Class B surveys.

4. Class D Surveys. Surveys of all remaining properties which cannot be classified as Class A, B or C surveys. This includes, but is not limited to, surveys of farm lands and rural areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for

Professional Engineers and Land Surveyors, LR 16:1065 (December 1990), amended LR 22:714 (August 1996), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1043 (July 2001), LR 30:

§2907. Property Boundary Survey

A. Definitions

Mineral Unit Survey (or Unit Plat)? a plan showing subsurface mineral boundaries prepared for the specific purpose of allocating mineral rights. A mineral unit survey should not be viewed as a property boundary survey subject to the requirements of the Minimum Standards for Property Boundary Surveys. This does not absolve the professional land surveyor from his/her obligation to use due diligence in the practice of and from complying with all applicable rules and laws pertaining to the practice of land surveying.

Property Boundary Survey? a survey which, after careful study, investigation, and evaluation of major factors influencing the location of boundaries, results in the deliberate location or relocation on the ground of one or more boundaries. When all the boundaries of a parcel of land are surveyed, an area determination may be included if requested by the client.

B. Purpose. The primary purpose of the property boundary survey is to locate or relocate the physical position and extent of the boundaries of real property, and the discovery of visible evidence of prescriptive rights relating thereto. A property boundary survey may also include the location or relocation of the physical position and extent of political boundaries which define the perimeters of public or private ownership. In addition, the property boundary survey is a means of marking boundaries for sufficient definition and identification to uniquely locate each lot, parcel, or tract in relation to other well recognized and established points of reference, adjoining properties and rights-of-way.

C. Product. A property boundary survey will result in the establishment of monumented corners; point of curvature and tangency; and reference points (see Subsection E, "Monuments"). In event that no plat of survey is required, the professional land surveyor must maintain adequate records to substantiate his professional opinion in reestablishing boundary lines and corners on a survey. If requested by the client, a boundary survey may also include the following:

1. a signed and sealed metes and bounds written description depicting the surveyed boundary (see Subsection H, "Descriptions");

2. a certified map or plat depicting the survey as made on the ground; and

3. a signed and sealed written report of the surveyor's findings and determinations.

D. Research and Investigation. A land surveyor shall be provided the legal description or plats describing the property to be surveyed. The land surveyor shall then evaluate the necessity to obtain the following data based on the specific purpose of the survey:

1. the most recent recorded legal descriptions and plats of the tract to be surveyed and tracts adjoining or in proximity to the property to be surveyed;

2. the recorded legal descriptions of adjoining, severing, or otherwise encumbering servitudes or rights-of-way, including but not limited to, highways, roadways, pipelines, utility corridors, and waterways used for drainage, navigation or flood control. Where the purpose of a survey neither requires nor includes research and investigation of servitudes, a note to that effect shall be placed upon the plat of survey; and

3. grants, patents, subdivision plats or other recorded data that will reference or influence the position of boundary lines.

E. Monuments. Monuments set or called for, whether artificial or natural, represent the footsteps of the land surveyor and his/her professional opinion as to the proper location of the points or corners of a property boundary survey. The following guidelines for monumentation of property boundary surveys shall be observed.

1. Natural monuments are objects which are the works of nature; such as streams, rivers, ponds, lakes, bays, trees, rock outcrops, and other definitive topographic features.

2. Artificial monuments are relatively permanent objects used to identify the location of a corner. Artificial monuments must retain a stable and distinctive location and must be of sufficient size and composition to resist the deteriorating forces of nature.

3. The following guidelines apply to artificial monuments to be set.

a. Monuments of a ferrous material must have at least 1/2 inch outside diameter, and must be at least 18 inches in length (longer in soft or unstable soil).

b. Concrete monuments must be at least 3 inches in width or diameter by 24 inches in length, reinforced with an iron rod at least 1/4 inch in diameter, and may contain a precise mark on top indicating the exact location of the corner.

c. Marks on existing concrete, stone, or steel surface must consist of drill holes, chisel marks or punch marks and must be of sufficient size, diameter or depth to be definitive, stable and readily identifiable as a survey monument. Marks on asphalt roads may consist of railroad spikes, large nails, "PK nails", or other permanent ferrous spikes or nail-like objects.

d. It is unacceptable to set wooden stakes as permanent boundary monuments.

e. Monuments must be set vertically whenever possible and the top may be reasonably flush with the ground when practical. Monuments subject to damage from earthwork, construction or traffic should be buried at a sufficient depth to offer protection.

f. When physically impossible to set a monument at the corner, witness monuments shall be set when possible, preferably on each converging line at measured distances from the corner and identified as such in the description and on the plat of the property.

F. Field Procedures. All field work shall be performed in accordance with accepted modern surveying theory, practice and procedures. Any person in charge of a field party shall be well-trained in the technical aspects of surveying. Every professional land surveyor under whose responsible charge a survey is conducted is also required to adhere to the following.

1. All field measurements of angles and distance shall satisfy the closures and tolerances expressed in this Chapter.

2. In performing resurveys of tracts having boundaries defined by lines established in public lands surveys, the land surveyor shall, as nearly as possible, reestablish the original lines of any prior survey made under United States or state

authority. In all townships or portions of townships where no survey has been made, the land surveyor, in surveying or platting the township or portion thereof, shall make it conform as nearly as practicable to the lots and section indicated upon the plats according to which the lands were granted by the state or by the United States. (R.S. 50:125)

3. Where applicable, surveys necessitating the division of a section, shall be performed in accordance with the instructions for the subdivisions of sections as published by the United States Department of the Interior, Bureau of Land Management, in its book entitled *Manual of Instruction for Survey of the Public Lands of the United States*, and all applicable federal laws.

4. Special consideration shall be afforded by the rules of evidence and "hierarchy of calls" before any decision is made regarding property boundaries. "... The legal guides for determining a question of boundary or the location of a land line in order of their importance and value are: 1–natural monuments, 2–artificial monuments, 3–distances, 4–courses, 5–quantity. But the controlling consideration is the intention of the parties." [See citation in *Myer vs. Comegys*, 147 La. 851, 86 So. 307, 309 (1920)]

5. A careful search shall be made for corner monuments affecting the location of the boundaries of land to be surveyed. Any evidence discovered shall be evaluated for its agreement in description and location with the call in the relevant deeds and/or plats.

6. All boundary discrepancies, visible encroachments, and visible indications of rights which may be acquired through prescription or adverse possession must be physically located. All evidence of servitudes that is visible without meticulous searching is to be physically located during the survey. Furthermore, nonvisible servitudes need to be located only upon the client's specific request.

7. All field data gathered shall satisfy the requirements of the following Subsection on plats, maps, and drawings.

G. Plats, Maps, and Drawings. Every original plat or map of a boundary survey should be a reproducible drawing at a suitable scale which clearly shows the results of the field work, computations, research and record information as compiled and checked. The plat map or drawing shall be prepared in conformity with the following guidelines.

1. Any reasonably stable and durable drawing paper linen or film of reproducible quality will be considered suitable material for boundary survey plats and maps.

2. No plats or maps shall have dimensions less than 8 inches by 10 1/2 inches.

3. All dimensions, bearings or angles, including sufficient data to define the curve shall be neatly and legibly shown with respect to each property or boundary line. When possible, all bearings shall read in a clockwise direction around the property. All lines and curves shall show sufficient data on the map to calculate a map closure.

4. Monuments shall be labeled as "found" or "set" with a brief definitive description of the monument and relevant reference markers, if any, along with their position in relation to the corner. This description shall include the physical characteristics of the monument and its relevance to the survey.

5. When the purpose of the survey dictates, all pertinent natural or man-made features located during the course of the field survey (water courses, streets, visible utilities, etc.) shall be labeled or represented by an appropriate symbol on the plat in its proper location. When appropriate, the feature should be dimensioned and referenced to the nearest property line.

6. All maps or plats must show a north arrow and it is recommended that the drawings be oriented so that north is toward the top of the sheet.

7. A statement indicating the origin of angles or bearings shall be shown on each plat, map, or drawing. If bearings are used, the basis of the bearing shall include one or more of the following:

a. reference to true north as computed by astronomic observation within one mile of the surveyed site;

b. reference to the Louisiana State Coordinate System with the proper zone and controlling station(s) noted;

c. reference to the record bearing of a well-established line found monumented on the ground as called for in a relevant deed, or survey plat;

d. when none of the above alternatives are practical, a magnetic bearing (corrected for declination) may be used.

8. If a coordinate system other than the Louisiana State Coordinate System is used on a map, that system must be identified. If that system is the Louisiana State Coordinate System, the appropriate zone must be shown on the map.

9. Where the new survey results differ from the prior deed information in regard to course, distance, location or quantity, the plat shall indicate such differences or discrepancies.

10. Where separate intricate details, blowups or inserts are required for clarity, they shall be properly referenced to the portion of the map where they apply. This applies particularly to areas where lines of occupation do not conform to deed lines and to areas where a comparison of adjoining deeds indicates the existence of a gap or an overlap.

11. Cemeteries and burial grounds known by the surveyor to be located within the premises being surveyed shall be indicated on the plat. However, a detailed survey of the limits of the cemetery shall not be required unless directed by the client.

12. When the purpose of the survey dictates, properties, water courses and rights-of-way surrounding, adjoining, or severing the surveyed site shall be identified. Private lands or servitudes should be labeled with the name of the owner or with a reference to the deed under which ownership is held, provided that such information is furnished by the client.

13. Original section, grant, subdivision or survey lines, when an integral part of the deed, shall be shown in proper location with pertinent labeling. A measurement of course and distance must be shown to a parent tract corner, block corner, section corner, subdivision or grant corner, and existing monuments shall be indicated.

14. Differing line weights or delineating letters or numbers (A, B, C, etc. or 1, 2, 3, etc.) shall be used to clearly show the limits of what is being surveyed.

15. Each plat, map or drawing shall show the following:

a. caption or title;

b. client and/or purpose;

c. general location of the property (or vicinity map);

d. the date of the survey;

e. the name, location and license number of the professional land surveyor; and

f. signature and impression seal of the professional land surveyor under whose direction the survey was done.

16. Final plats or maps issued to the client must contain a certificate signed and sealed by the professional land surveyor certifying its authenticity (that it represents his/her survey) and stating that the survey is in accordance with the applicable standards of practice as stipulated in this publication based on the current survey "classification" (see §2905 on Classification of Surveys).

H. Descriptions. A written legal description of the surveyed tract of land must provide information to properly locate the property on the ground and distinctly set it apart from all other lands. The following guidelines apply.

1. When the surveyed property's dimensions, boundaries and area are in agreement with the existing recorded deed or platted calls, the existing recorded description may be used if it approximates the standards contained herein.

2. When the property is an aliquot part of a rectangular section or a lot in a platted subdivision, the aliquot method or the lot, block and subdivision method (including recordation data) of describing the property can be used. Metes and bounds descriptions of this type of property are optional.

3. Every aliquot description must contain the following basic information: aliquot part of section, township, range, parish, land district and meridian (if applicable), parish and state.

4. Every subdivision lot description must also contain the following basic information: lot, block, unit (if applicable), name of subdivision, city (if applicable), parish and state.

5. Every metes and bounds description may be written in at least two parts. The first part, called the "General Description," should indicate the general location of the property by naming the particular lot or block, within which it is located if in a subdivision or by naming the grant or aliquot part of a rectangular section within which it is located, along with the township, range, land district and meridian (if applicable), city (if applicable), parish and state. The second part called the "Particular Description," shall logically compile and incorporate calls for the following:

a. courses and distances of the new survey, preferably in a clockwise direction;

b. adjoining apparent rights-of-way or servitudes;

c. monuments (when controlling), including descriptions of type, size, material, reference monuments (if applicable), and whether found, set or replaced;

d. parenthetical deed calls where the deed calls differ from the new survey; and

e. the area, if stated, shall be in square feet or acres or hectares within the tolerances specified in this Chapter.

6. The "Point of Beginning" should be the property corner that is most accessible and most easily identifiable by interested parties. This point shall be carefully chosen and described in a manner which will distinguish it indisputably from any other point. The "Commencing Point" shall be any identifiable point used to locate the "Point of Beginning."

7. The courses in the written description shall be as brief and yet as explanatory as the land surveyor can construct. Brevity should not cause important locative information to be omitted, and explanatory phrases should not enlarge the description to the extent of confusion.

8. Curved boundaries shall be identified as tangent or non-tangent curves, and sufficient data to define the curve shall be presented.

9. Each metes and bounds description must return to the Point of Beginning and close mathematically within the tolerances stated in this Chapter.

10. A statement at the end of the description should connect the description to the specific survey on which it is based and to the map or plat which depicts the survey. Such a statement may be phrased:

> "This description is based on the boundary survey and plat made by _____(name)_____ Professional Land Surveyor, dated _____." or
> "This description is based on plat recorded _____ (give recordation data)."

11. The metes and bounds description shall then be signed and sealed by the land surveyor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1065 (December 1990), amended LR 19:48 (January 1993), LR 22:714 (August 1996), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1043 (July 2001), LR 30:

§2909. Accuracy Specification and Positional Tolerances

Condition	A	B	C	D	
	Urban Business District	Urban	Suburban	Rural	Remarks And Formula
Unadjusted Closure (maximum allowable)	1:15,000	1:10,000	1:7,500	1:5,000	Traverse Loop or between Control Monuments
Angular Closure (maximum allowable)	10"vN	15"vN	25"vN	30"vN	N = Number of Angles in Traverse
Accuracy of Bearing	± 15 Sec.	± 20 Sec.	± 30 Sec.	± 40 Sec.	In Relation to Source
Linear Distances Accurate to: (maximum allowable)	0.05 ft ± ± 0.05 ft per 1,000 ft	0.05 ft ± ± 0.1 ft per 1,000 ft	0.07 ft + ± 0.15 ft per 1,000 ft	0.1 ft + ± 0.2 ft per 1,000 ft	Applies when the Distance is not part of a Closed Traverse
Positional Tolerance and Positional Accuracy of any Monument (maximum)	0.1' + AC/15,000	0.1' + AC/10,000	0.1' + AC/7,500	0.2' + AC/5,000	AC = Length of Any Course*
Calculation of area - Accurate and carried to nearest ____ (decimal place) of an acre	0.001 0.001 0.01 0.1	0.001 0.001 0.01 0.1	0.001 0.01 0.1 0.2	0.001 0.01 0.1 0.3	To 1 acre To 10 acres To 100 acres To 1,000 acres
Elevations for Boundaries Controlled by Tides, Contours, Rivers, etc. Accurate to:	0.2 ft.	0.3 ft.	0.4 ft.	0.5 ft.	Based on Accepted Local Datum
Location of Improvements, Structures, Paving, etc. (Tie Measurements) Adjusted Mathematical Closure to Survey (Minimum)	± 0.1 ft. 1:50,000	± 0.2 ft. 1:50,000	± 0.5 ft. 1:50,000	± 1 ft. 1:50,000	

*Short courses in categories "A" and "B" may generate positional errors of less than 0.01 feet. A minimum course distance of 200 feet should be used in calculating positional error.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1068 (December 1990), amended LR 22:716 (August 1996), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1046 (July 2001), LR 30:

Chapter 31. Continuing Professional Development (CPD)

§3101. Introduction

A. This Chapter provides for a continuing professional development (CPD) program to insure that all professional engineers practicing engineering and professional land surveyors practicing land surveying be informed of those technical and professional subjects necessary to safeguard life, health and property and promote the public welfare. Beginning on January 1, 1999, every licensee shall meet the continuing professional development requirements of this Chapter as a condition for license renewal.

B. The primary purpose of licensing for professional engineers and professional land surveyors is to protect the public from unqualified or unethical practitioners. The requirement for continuing professional development is also intended to protect the public by reinforcing the need for lifelong learning in order to stay more current with changing technology, equipment, procedures, processes, tools, and established standards. This Chapter provides flexibility in selecting among a broad range of activities that are intended to strengthen or maintain competency in technical, managerial (business) or ethical endeavors. Licensees are encouraged to select meaningful CPD activities which will be of benefit in the pursuit of their chosen fields.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1046 (July 2001), LR 30:

§3103. Definitions

A. Terms used in this Chapter are defined as follows.

Acceptable Activity? subject matter which is technical in nature or addresses business management practices, professional ethics, quality assurance, codes or other similar topics which facilitate the licensee's professional development as a professional engineer or professional land surveyor, and/or serves to safeguard life, health and property and promote the public welfare. Any *Course/Activity* offered or approved by a *Board-Approved Sponsor/Provider* will qualify as an *Acceptable Activity* (see definition of *Board Approved Sponsor/Provider*). It will be the responsibility of the licensee to determine if a *Course/Activity* offered by an unapproved sponsor/provider is an *Acceptable Activity*.

Board? the Louisiana Professional Engineering and Land Surveying Board.

Board-Approved Sponsor/Provider? the Louisiana Engineering Society; the Louisiana Society of Professional Surveyors; professional and technical engineering or land surveying societies; federal, state or local governmental agencies; colleges or universities; and any individual, firm or educational institution approved by the board on a case-by-case basis. All sponsors/providers must conduct courses which will enhance and improve a licensee's professional development as a professional engineer or a professional land surveyor, and/or serve to safeguard life, health and property and promote the public welfare. Failure to do so

will be grounds for the board to revoke its sponsorship/provider approval.

Continuing Education Unit (*CEU*)? a unit of credit customarily used for continuing education courses. One continuing education unit equals 10 hours of in-class time in approved continuing education courses.

Continuing Professional Development (CPD)? the educational process whereby a professional engineer or professional land surveyor licensee engages in a continuing program to maintain, improve or expand skills and knowledge.

Course/Activity? any program with a clear purpose and objective which will maintain, improve or expand the skills and knowledge relevant to the licensee's field of practice.

Dual Licensee? a person who is licensed in both land surveying and one or more disciplines of engineering.

License Status?

a. *Active Status*? a licensee of the board as defined in §2103.

b. *Expired Status*? a licensee of the board as defined in §2103.

c. *Inactive Status*? a licensee of the board as defined in §2103.

d. *Retired Status*? a licensee of the board as defined in §2103.

Professional Development Hour (PDH)? a nominal contact hour of instruction, presentation, or activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1047 (July 2001), LR 30:

§3105. Requirements

A. During each biennial licensure renewal period, every professional engineer licensee, including those licensed in two or more disciplines, is required to obtain 30 PDHs in engineering related activities.

1. At least one PDH shall be in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional engineer.

2. A minimum of eight PDHs shall be earned in Life Safety Code, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer licensee who designs buildings and/or building systems.

B. During each biennial licensure renewal period, every professional land surveyor licensee is required to obtain 15 PDHs in land surveying related activities.

1. At least one PDH shall be in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional land surveyor.

2. A minimum of two PDHs shall be earned in the Minimum Standards for Property Boundary Surveys in Louisiana.

C. During each biennial licensure renewal period, each dual licensee shall obtain 30 PDHs; however, at least one-third of the PDHs shall be obtained separately for each profession.

1. At least one PDH shall be in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional engineer and/or professional land surveyor.

2. A minimum of two PDHs shall be earned in the Minimum Standards for Property Boundary Surveys in Louisiana.

3. A minimum of eight PDHs shall be earned in Life Safety Code, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer licensee who designs buildings and/or building systems.

D. Excess PDHs

1. If a licensee exceeds the biennial licensure renewal period requirements, a maximum of 15 PDHs may be carried forward into the subsequent biennial licensure renewal period.

2. Excess PDHs may include, without limitation, those obtained in professional ethics, Minimum Standards for Property Boundary Surveys in Louisiana, Life Safety Code, building codes and/or Americans with Disabilities Act Accessibility Guidelines.

E. Licensees will be required to verify compliance with these CPD requirements at the end of their first full biennial licensure renewal period which begins after the effective date of these rules and at the end of each subsequent biennial licensure renewal period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1047 (July 2001), LR 30:

§3107. Reciprocity/Out-of-Jurisdiction Resident

A. The CPD requirements for Louisiana will be deemed as satisfied when a non-resident engineer or land surveyor provides evidence of having met the requirements of the licensee's resident jurisdiction; provided, however, that as part of satisfying these requirements, non-resident licensees must meet the professional ethics requirements of §3105.A.5 or §3105.B.1, as applicable, non-resident licensees practicing engineering in Louisiana who design buildings and/or building systems in Louisiana must meet the requirements of §3105.C.3, as applicable, and non-resident licensees practicing land surveying in Louisiana must meet the requirements of §3105.B.2.

B. If the non-resident engineer or land surveyor resides in a jurisdiction that has no CPD requirements applicable to that licensee, the licensee must meet all requirements of Louisiana as set forth in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2153 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1048 (July 2001), LR 30:

§3109. Exemptions

A. A licensee may be exempt from the CPD requirements for any one of more of the following reasons.

1. New licensees shall be exempt at their first renewal. Compliance with the CPD requirements must be certified upon the licensee's second renewal and thereafter.

2. Licensees serving on active duty in the armed forces of the United States for a period of time exceeding 180 consecutive days in a biennial licensure renewal period shall be exempt from obtaining the PDHs required during that biennial licensure renewal period.

3. Licensees experiencing physical disability, serious illness, or serious injury of a nature and duration which has prevented the licensee from completing his/her CPD requirements for the past renewal period may be exempted from CPD requirements for said renewal period. Supporting documentation such as a letter from a physician who has treated the disability, illness or injury is required. This letter shall be on the letterhead of the physician and set forth the nature of the disability, illness or injury and the period of time under treatment by the physician, and contain a statement by the physician as to any limitations placed upon the licensee which would limit his ability to complete any type of CPD. This exemption may be granted for one biennial licensure renewal period. Additional exemptions for medical reasons may be granted on a case-by-case basis.

4. Licensees working outside of the United States for more than 180 days in a biennial licensure renewal period where the completion of CPD is impractical due to location, working hours, mail restrictions, etc., may be granted an exemption from CPD requirements for the period of time the licensee is in the foreign location. Supporting documentation of the foreign assignment must be provided by the employer on the employer's letterhead or by other documentation satisfactory to the board. The letter shall at a minimum set forth both the location and the period of time the person has been in the foreign location.

5. Licensees who certify their status as *Inactive* on the board-approved renewal form and who further certify that they are no longer offering or practicing professional engineering and/or professional land surveying in Louisiana shall be exempt. In the event such a person elects to return to *Active Status*, the licensee must meet the requirements set forth in §3121.

6. Licensees who certify their status as *Retired* on the board-approved renewal form and who further certify that they are no longer offering or practicing professional engineering and/or professional land surveying in Louisiana shall be exempt. In the event such a person elects to return to *Active Status*, the licensee must meet the requirements set forth in §3121.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2153 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1048 (July 2001), LR 30:

§3111. Determination of Credit

A. PDHs may be earned as indicated in §3113 for the following *Acceptable Activities*:

1. successful completion of college courses, correspondence courses, continuing education courses, seminars, tutorials, short courses and/or by teaching/instructing these items;

2. attending or presenting qualifying seminars; in-house courses sponsored by corporations, governmental agencies or other organizations; workshops; or professional/technical presentations made at meetings, conventions, or conferences;

3. obtaining teaching credit for teaching/instructing or presenting. To obtain credit for teaching/instructing or presenting, licensees must be able to document that research and preparation were necessary, such as in the case of first-time teaching;

4. membership in engineering and land surveying professional associations or technical societies;

5. authoring and publishing articles in engineering or land surveying journals;

6. obtaining patents; and

7. formal, documented problem preparation for NCEES or state professional exams.

B. PDHs may not be earned through informal, non-structured activities such as reading technical journals.

C. The board has final authority with respect to the acceptability of courses, PDH credit, PDH value for courses, and other methods of earning credit. PDH credit for acceptable college or correspondence courses may be based upon course credit established by the college or school.

D. Selection of activities is the responsibility of the licensee; however, guidance is available from the board (see §3103.*Acceptable Activity*, and §3111.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2153 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1048 (July 2001), LR 30:

§3113. Units

A. The conversion of other units of credit to PDHs is as follows:

1. one college or unit semester hour = 45 PDHs;
2. one college or unit quarter hour = 30 PDHs;
3. one continuing education unit = 10 PDHs.

B. PDH credit will be awarded as follows:

1. fifty contact minutes of instruction or verified attendance at an activity, or problem preparation for a NCEES or state professional exam = one PDH. A maximum of 10 PDHs will be allowed per biennial licensure renewal period for problem preparation;

2. membership in engineering and land surveying professional associations or technical societies = one PDH per biennial licensure renewal period for each professional or technical association or society. A maximum of three PDHs will be allowed per biennial licensure renewal period for all such memberships;

3. in accordance with §3111.A.1-3, credit for teaching or making presentations may be earned at twice the PDHs allowed for attending a course, but shall not exceed 30 PDHs in any biennial licensure renewal period;

4. authoring and publishing peer reviewed (refereed) articles/papers in engineering or land surveying journals = 10 PDHs;

5. authoring and publishing non-peer reviewed (nonrefereed) articles/papers in engineering or land surveying journals = 5 PDHs;

6. each patent = 10 PDHs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1048 (July 2001), LR 30:

§3115. Record Keeping

A. All licensure renewal applications will require the completion of a board-approved renewal form. By completing and returning this form, the licensee is certifying that he/she has met all requirements for licensure renewal, including CPD requirements. This form will also contain an affirmation which must be completed if the licensee desires to change his/her license status.

B. In addition, the licensee will be required to maintain the board-approved Professional Development Activity Log outlining PDHs claimed. The licensee must complete all sections of the form and be prepared to submit the completed form and any corresponding documentation to the board upon request. Blank forms can be obtained from the board's website.

C. Maintaining records to be used to support PDHs claimed is the responsibility of the licensee. These records must be maintained for at least three consecutive biennial licensure renewal periods (six years) and copies may be requested by the board at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1049 (July 2001), LR 30:

§3117. Audit and Review of Records

A. The board may request, at any time, that a licensee provide proof of compliance with all CPD requirements.

B. Additionally, the board will conduct random audits of biennial renewals of up to 30 percent of all board licensees.

C. Additionally, the board will require that all licensees against whom formal disciplinary charges are pending in Louisiana provide proof of compliance with all CPD requirements.

D. Should the licensee fail to provide proof of compliance, or if discrepancies or deficiencies are discovered as the result of any of the reviews provided for in §3117.A-C, the licensee will be deemed not in compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.l.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1049 (July 2001), LR 30:

§3119. Failure to Comply

A. When a licensee is deemed not in compliance with the CPD requirements of the board, the licensee will be so notified and will be given 120 days to satisfy the board requirements. The licensee must provide documented evidence of compliance accompanied by payment of an administrative fee of $200. Failure to comply will subject the licensee to disciplinary action as provided in the licensure law.

B. CPD hours acquired and used to satisfy a not-in-compliance situation may not be used to meet the CPD hours required for the current licensure renewal period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.l.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1049 (July 2001), LR 30:

§3121. CPD Reinstatement

A. To become reinstated, an *Expired*, *Inactive*, or *Retired* licensee must show proof of having obtained all delinquent PDHs; however, the maximum number required will be the number of PDHs required for one biennial licensure renewal period as provided in §3105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.l.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1049 (July 2001), LR 30:

Chapter 33. Disciplinary and Enforcement Proceedings

§3301. Disciplinary and Enforcement Proceedings

A. Any disciplinary or enforcement proceedings initiated by or with the board will be governed by the substantive and procedural provisions of the licensure law and by the provisions of the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:117 (May 1979) amended LR 6:149 (April 1980), LR 7:649 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1049 (July 2001), LR 30:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed rules have no known impact on family formation, stability or autonomy.

Interested parties are invited to submit written comments on the proposed rules through May 7, 2004 at 4:30 p.m., to Benjamin S. Harrison, Acting Executive Secretary, Louisiana Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Benjamin S. Harrison
Acting Executive Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Professional Engineers and Land Surveyors

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs (savings) are expected. The proposed rules are primarily housekeeping revisions of existing board rules and were necessitated by the passage of Acts 2003, No. 279, which was a housekeeping revision of the Louisiana Professional Engineering and Land Surveying Licensure Law, La. R.S. 37:681, et seq.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue is expected. The proposed rules are primarily housekeeping revisions of existing board rules and were necessitated by the passage of Acts 2003, No. 279, which was a housekeeping revision of the Louisiana Professional Engineering and Land Surveying Licensure Law, La. R.S. 37:681, et seq.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No costs or benefits are expected. The proposed rules are primarily housekeeping revisions of existing board rules and were necessitated by the passage of Acts 2003, No. 279, which was a housekeeping revision of the Louisiana Professional Engineering and Land Surveying Licensure Law, La. R.S. 37:681, et seq. These revisions do not impose any additional substantive requirements, costs, or economic benefits on directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is expected. The proposed rules are primarily housekeeping revisions of existing board rules and were necessitated by the passage of Acts 2003, No. 279, which was a housekeeping revision of the Louisiana Professional Engineering and Land Surveying Licensure Law, La. R.S. 37:681, et seq. These revisions will not impose any additional substantive effects on competition or employment.

Benjamin S. Harrison	Robert E. Hosse
Acting Executive Director	General Government Section Director
0404#099	Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury
Parochial Employees' Retirement System

Definitions; Eligibility; Scope of Benefits
(LAC 58:XI.103, 301, 303, 501, 505, and 509)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees for the Parochial Employees' Retirement System has approved for advertisement the adoption of Chapter 3, and the amendment of Chapters 1 and 5, of Part XI, included in Title 58, Retirement, of the *Louisiana Administrative Code*. This intended action complies with the statutory law administered by the Board of Trustees for the Parochial Employees Retirement System. The proposed Rule is being adopted pursuant to R.S. 11:1931 which provides that rules and regulations be adopted which will assure that the Parochial Employees' Retirement System will remain a tax-qualified retirement plan under the United States Internal Revenue Code and the regulations thereunder. This proposed Rule is meant to bring the Parochial Employees Retirement System into compliance with the United States General Agreement on Tariffs and Trade, the Uniformed Services Employment and Reemployment Rights Act of 1996, the Small Business Job Protection Act of 1996, and the Taxpayer Relief Act of 1997 (collectively known as GUST), and the Economic Growth and Tax Relief Reconciliation Act of 2001 (known as EGTRRA). These amendments to the Parochial Employees Retirement System were approved by the United States Internal Revenue Service pursuant to an IRS determination letter and were required to be implemented within 91 days of the issuance of the IRS determination letter. In order to timely effect implementation, an Emergency Rule was adopted by the Parochial Employees Retirement System. This proposed Rule makes the Emergency Rule permanent without any changes to the text of the Emergency Rule. A preamble to this proposed action has not been prepared.

The text of this proposed Rule may be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

Family Impact Statement

The proposed amendment of LAC 58:XI.103, 301, 303, 501, 505, and 509 regarding Internal Revenue Code provisions applicable to the Parochial Employees Retirement System, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; or
6. the ability of the family or a local government to perform the function as contained in the proposed Rules.

Any interested person may submit written data, views, arguments or comments regarding these proposed rules to Dainna S. Tully, Assistant Director, Parochial Employees Retirement System by mail to P.O. Box 14619, Baton Rouge, LA 70898-4619. All comments must be received no later than 4:30 p.m., May 10, 2004.

Thomas B. Sims
Administrative Director
and
Dainna S. Tully
Assistant Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Definitions; Eligibility; Scope of Benefits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation cost to the state government is anticipated because of these proposed Rules. Only minor costs to local governmental units are anticipated. Such costs cannot be reasonably calculated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These regulations will have no impact 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 are no estimated costs and/or economic benefits that should affect any persons or nongovernmental groups as a result of these Rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment as a result of these Rules.

Thomas B. Sims	H. Gordon Monk
Administrative Director	Staff Director
0404#059	Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury
State Bond Commission

Costs of Issuance and Reporting Requirements
(LAC 71:III.701)

In accordance with the provisions of Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana State Bond Commission intends to amend the commission's rules as originally adopted November 20, 1976.

The State Bond Commission intends to amend its rules regarding costs of issuance and reporting requirements, as follows.

Title 71
TREASURY? PUBLIC FUNDS
Part III. Bond Commission? Debt Management
Chapter 7. Costs of Issuance and Reporting Requirements

§701. Procedure

A. No later than 45 days after the closing and delivery of bonds by any non-traditional issuer, including but not limited to the Louisiana Public Facilities Authority, other public trusts, the Louisiana Local Government Environmental Facilities and Community Development Authority, other political subdivisions having statewide jurisdiction, state agencies, and industrial development boards (collectively, the "Issuer"), the Issuer or its representative shall submit to the State Bond Commission a final report with respect to such issue. This final report shall be in a form provided by the State Bond Commission and shall provide information with respect to the final size of the issue, maturities and interest rates, and all costs of issuance including underwriters' discount ("costs of issuance"), paid from bond proceeds and/or other sources.

B. The report shall list:

1. the costs of issuance by individual item as submitted to and approved by the State Bond Commission;

2. the actual costs of issuance by individual item and;

3. the variance, if any, between the approved and actual costs of issuance by individual item, dollar amount and percentage. If:

a. the total actual costs of issuance exceed the total approved costs of issuance; or

b. the actual costs of issuance in any line item exceed the approved costs of issuance by a variance of 10 percent or more, the Issuer shall obtain supplemental approval of the State Bond Commission prior to paying any individual item in excess of the approved costs of issuance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, State Bond Commission, LR 18:1418 (December 1992), amended LR 30:

Interested persons may submit their views and opinions through May 10, 2004 to Sharon Perez, Secretary and Director of the State Bond Commission, Twenty-first Floor, State Capitol Building, Box 44154, Baton Rouge, LA 70804.

The commission shall, prior to the adoption of the Rule, afford all interested persons reasonable opportunity to submit data, views, or arguments, if requested by 25 persons, or a committee of either house of the legislature to which the Rule change has been referred, as required under the provisions of Section 968 of Title 49.

At least eight working days prior to the meeting of the commission at which a Rule or Rules are proposed to be adopted, amended or repealed, notice of any intention to make an oral or written presentation shall be given to the director of the commission. If the presentation is to be oral, such notice shall contain the name or names, telephone numbers, and mailing addresses of the person or persons who will make such oral presentation, who they are representing, the estimated time needed for the presentation, and a brief summary of the presentation. Notice of such oral presentation may be sent to all commission members prior to the meeting. If the presentation is to be written, such notice shall contain the name or names of the persons submitting such written statement, who they are representing, and a copy of the statement itself. Such written statement shall be sent to all commission members prior to the meeting.

The commission shall consider all written and oral submissions concerning the proposed Rule. Upon adoption of a Rule, the commission, if requested to do so by an interested person either prior to the adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for or against its adoption.

John Kennedy
State Treasurer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Costs of Issuance and Reporting Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule is an amendment to an existing rule and requires that no later than 45 days after the closing and delivery of bonds by any non-traditional issuer, the issuer or its representative shall submit to the State Bond Commission a final report with respect to such issues. This report shall provide information with respect to the final issue size, maturities and interest rates, and all costs of issuance.

If the total actual costs of issuance exceed the total approved costs of issuance, or the actual costs of issuance in any line item exceed the approved costs of issuance by a variance of 10 percent or more, the Issuer shall obtain supplemental approval of the State Bond Commission prior to paying any individual item in excess of the approved cost of issuance.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of the state or local governmental units to implement the adoption of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated effect on costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment by the adoption of this proposed rule.

John Kennedy	H. Gordon Monk
State Treasurer	Staff Director
0404#080	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Cypress Lake and Black Bayou Reservoir
Netting Prohibition (LAC 76:VII.195)

The Wildlife and Fisheries Commission hereby gives notice of its intent to amend a Rule on netting in Cypress Lake and Black Bayou Reservoir in Bossier Parish, Louisiana.

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.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 1. Freshwater Sports and Commercial Fishing
§195. Cypress Lake and Black Bayou Reservoir Netting Prohibition

A. The Wildlife and Fisheries Commission hereby prohibits the use of gill nets, trammel nets, hoop nets, slat traps, wire nets and fish seines in Cypress Lake and Black Bayou Reservoir, Bossier Parish, Louisiana; provided however there shall be a special season which shall run from November 1 through the end of February of the following year, during which time the use of hoop nets, slat traps and wire nets shall be allowed. All hoop nets, wire nets and slat traps must be removed from the lakes prior to March 1 of each year.

B. Effective with this prohibition, no person shall possess any gill net, trammel net, hoop net, slat trap, wire net or fish seine while on the waters of Cypress Lake or Black Bayou Reservoir except that during the special season, hoop nets, slat traps and wire nets may be possessed. In addition, no person shall take, possess or sell any fish, which was taken with a gill net, trammel net or fish seine from Cypress Lake or Black Bayou Reservoir.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22(B), R.S. 56:25(A), Act 55, First Extraordinary Session, 2002, State Legislature.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:1997 (September 2002), amended LR 30:

Family Impact Statement

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).

Interested persons may submit written comments on the amended Rule to Bennie Fontenot, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, June 3, 2004.

Bill A. Busbice, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Cypress Lake and Black Bayou Reservoir Netting Prohibition

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule will have no implementation costs. Enforcement of the proposed Rule will be carried out using existing staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule change is anticipated to have no significant effect on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule change bans the use of hoop nets, wire nets and slat traps in the Cypress Lake and Black bayou reservoir except during a special season from November 1 through the end of February. Recreational anglers and commercial fishermen will be required to remove all hoop net, slat traps and wire nets from Cypress Lake and Black bayou Reservoir prior to March 1 of each year. It is anticipated that a few recreational anglers and commercial fishermen who fish in this area may be significantly impacted from the proposed Rule change. They will either have to relocate their fishing gear to other waterbodies, use another type of fishing gear or exit the fishery. The overall impact on the commercial and recreational industry is expected to be minimal due to the small number of recreational anglers and commercial fishermen that purchase these types of gear licenses and the amount of reported trip

ticket landings from the area. The prohibition of these gear types in Cypress Lake and Black Bayou Reservoir during the spring and summer months should help the Department in achieving and maintaining its management objectives.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule change will have little or no effect on competition and employment in the public and private sectors.

Janice A. Lansing	Robert E. Hosse
Undersecretary	General Government Section Director
0404#050	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Spanish Lake State Game and Fishing Preserve
(LAC 76.III.329)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule for the Spanish Lake State Game and Fishing Preserve.

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.

Title 76
WILDLIFE AND FISHERIES
Part III. State Game and Fish Preserves and Sanctuaries
Chapter 3. Particular Game and Fish Preserves and Commissions

§329. Spanish Lake State Game and Fishing Preserve

A. General

1. Parking is restricted to designated parking areas.

2. The levee road will have one-way traffic with the entrance at the boat ramp and the exit on Bernard Drive.

3. ATV's (three wheelers and four wheelers) and motorbikes are prohibited on the levee.

4. Discharge of any firearms on the levees is prohibited.

5. Overnight camping is prohibited, except by special permit issued by Spanish Lake Game and Fishing Preserve Commission for supervised groups only.

6. The possession or use of commercial nets, including hoop nets, trammel nets, gill nets and fish seines, is prohibited, except by special permit issued by the Department of Wildlife and Fisheries.

7. No trapping of furbearing animals, except by special permit issued by the Department of Wildlife and Fisheries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6, R.S. 56:721 et seq., R.S. 56:801 and R.S. 36:610.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 23:872 (July 1997), amended LR 30:

Family Impact Statement

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).

Interested persons may submit written comments of the amended Rule to Bennie Fontenot, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, June 3, 2004.

Bill A. Busbice, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Spanish Lake State Game and Fishing Preserve

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no state or local governmental implementation costs. Enforcement of the proposed Rule will be carried out using existing staff and funding levels.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule will have no effect on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule change would allow access to Spanish Lake State Game and Fishing Preserve during nighttime hours. Commercial fishers, recreational anglers and the public who desire access to the lake during nighttime hours will benefit from the proposed Rule change. Local businesses may also benefit through increased sales of goods and services. The magnitude of economic benefits derived from the anticipated increase of commercial and recreational activities due to the Rule change cannot be determined at this time, but is not expected to be significant.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule should have no impact on competition and employment in the public and private sectors.

Janice A. Lansing	Robert E. Hosse
Undersecretary	General Government Section Director
0404#051	Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY – MARCH 2004

LAC Title	Part.Section	Effect	Location LR 30 Month	Page
7	XI.115	Amended	Feb.	195
	XIII.109,145	Amended	Feb.	198
	XVII.121	Amended	Feb.	198
	XXIII.131	Amended	Feb.	197
	XXV.117,119	Amended	Feb.	196
	XXVII.128	Amended	Feb.	197
	XXXIII.101	Amended	Feb.	196
	XXXIX.301	Amended	Feb.	200
	XXXIX.501	Amended	Feb.	195
10	XV.303-313,317,320	Amended	Jan.	33
	XV.319	Adopted	Jan.	33
22	I.101	Amended	Jan.	75
	I.101	Repromulgated	Feb.	264
	I.102	Adopted	Jan.	77
	I.312	Adopted	Jan.	80
	III.4725	Adopted	Mar.	435
28	I.901	Amended	Mar.	394
	I.901	Amended	Mar.	394
	I.901	Amended	Mar.	395
	I.903	Amended	Feb.	200
	I.903	Amended	Feb.	206
	I.903	Amended	Mar.	396
	I.903	Amended	Mar.	400
	I.903	Amended	Mar.	401
	I.903	Amended	Mar.	404
	XXXIX.503,505,905,911,1301	Amended	Mar.	407
	XXXIX.1501	Adopted	Mar.	407
	LI.Chapters 1-9	Adopted	Feb.	209
	XCI.Chapters 1-5	Adopted	Mar.	414
32	IX.701	Amended	Mar.	435
33	I.705	Amended	Mar.	421
	V.10303	Amended	Mar.	447
	V.30112,30161,30204,30905	Repromulgated	Feb.	257
	IX.Chapters 1-71	Repromulgated	Feb.	229
42	VII.2953	Amended	Jan.	90
	IX.2922	Amended	Jan.	90
	XI.Chapter 24	Amended	Feb.	266
	XI.Chapter 24	Repromulgated	Mar.	439
	XIII.2953	Amended	Jan.	90
43	XIX.303	Amended	Feb.	254
	XIX.3101,3103,3105	Amended	Feb.	255
	XIX.3101,3103,3105	Repromulgated	Mar.	437
46	V.2901,2905	Amended	Mar.	436
	V.4401,4403	Amended	Mar.	436
	XLV.125,127,131	Amended	Jan.	45
	XLV.125,127,131	Repromulgated	Feb.	238
	XLV.139,141	Amended	Jan.	45
	XLV.139,141,143	Repromulgated	Feb.	239
	XLV.143	Adopted	Jan.	45
	XLV.149,153	Amended	Feb.	237
	XLV.159,161,163,165	Amended	Jan.	42
	XLV.159,161,163,165	Repromulgated	Feb.	234
	XLV.173,175	Amended	Jan.	44
	XLV.173,175	Repromulgated	Feb.	237
	XLV.185,187	Amended	Jan.	41
	XLV.185,187	Repromulgated	Feb.	234
	XLV.193,195	Amended	Jan.	46
	XLV.193,195, 197	Repromulgated	Feb.	239
	XLV.197	Adopted	Jan.	46
	XLV.203,205	Amended	Jan.	43
	XLV.203,205	Repromulgated	Feb.	236
	XLV.221,223,225	Adopted	Jan.	43
46	XLV.221,223,225	Repromulgated	Feb.	235
	XLV.1509,1517	Amended	Feb.	237
	XLV.1903,1907,1917-1927,1931	Amended	Mar.	421
	XLV.1933,1947-1951,1955,1975	Amended	Mar.	421
	XLV.1913,1947	Amended	Jan.	44
	XLV.1913,1947	Repromulgated	Feb.	237
	XLV.2313,2345	Amended	Jan.	43
	XLV.2313,2345	Repromulgated	Feb.	236
	XLV.3107,3129,3157	Amended	Jan.	42
	XLV.3107,3129,3157	Repromulgated	Feb.	234
	XLV.3713,3743	Amended	Jan.	43
	XLV.3713,3743	Repromulgated	Feb.	235
	XLV.4903	Amended	Mar.	421
	XLV.4923	Repealed	Mar.	421
	XLV.Chapter 73	Adopted	Mar.	424
	LXVII.3905	Amended	Jan.	41
	LXX.Chapter 63	Adopted	Jan.	38
	LXXXVI.703	Amended	Mar.	427
	LXXXVI.1800-1801	Adopted	Mar.	427
48	I.Chapter 16	Adopted	Jan.	46
	I.1607	Repromulgated	Feb.	240
	I.Chapter 62	Adopted	Jan.	92
	I.Chapter 84	Amended	Mar.	432
	I.8821	Amended	Jan.	92
	I.Chapter 90	Adopted	Jan.	54
50	II.10939	Amended	Feb.	242
	VII.1309	Amended	Jan.	53
	XV.16101-16107	Adopted	Mar.	434
	XV.6903	Amended	Feb.	252
	XV.7305,7307,7311	Amended	Feb.	252
	XV.7501	Adopted	Feb.	252
	XV.7501	Repromulgated	Mar.	429
	XIX.Chapters 1-5	Adopted	Mar.	430
	XXIII.Chapters 1-13	Adopted	Feb.	244
55	I.2703,2705,2725	Amended	Feb.	270
	I.2740-2747	Adopted	Feb.	270
58	III.201	Adopted	Feb.	273
	III.503	Amended	Jan.	100
	XI.Chapters 1,5	Adopted	Mar.	508
61	I.301-308,311-313	Repromulgated	Mar.	448
	I.309	Amended	Mar.	448
	I.317	Repealed	Mar.	448
	I.1115,1122,1123,1128,1130,1134	Repromulgated	Mar.	470
	I.1137,1140,1147,1148,1168,1189	Repromulgated	Mar.	470
	I.1520	Adopted	Jan.	90
	V.303,309,703,907,1103,1503	Amended	Mar.	487
	V.2503,2703,2705,2707,2711	Amended	Mar.	487
	V.2713,2717,3101,3105,3501	Amended	Mar.	487
67	III.1209,1213,1221,1231	Amended	Mar.	493
	III.1237-1249,1983,1987	Amended	Mar.	493
	III.1932,1995	Amended	Mar.	493
	III.5103-5107,5111,5321	Amended	Mar.	493
	III.5335	Repealed	Mar.	493
	III.5339,5341	Amended	Mar.	493
	III.5401-5407,5529	Repealed	Mar.	500
	III.5505-5509,5525,5539	Amended	Mar.	500
	III.5575,5577	Adopted	Mar.	500
	III.5701-5729	Adopted	Mar.	493
70	II.1509,1513	Amended	Feb.	272
73	III.Chapter 3	Amended	Mar.	502
76	VII.367	Adopted	Jan.	101

Potpourri

POTPOURRI

Department of Agriculture and Forestry
Horticulture Commission

Annual Quarantine Listing? 2004

In accordance with LAC 7:XV.107 and 109, we are hereby publishing the annual quarantine.

Sweetpotato Weevil

(*Cylas formicarius elegantulus Sum*)

(a) In the United States: the states of Alabama, California, Florida, Georgia, Mississippi, North Carolina, South Carolina, Texas and any other state found to have the sweetpotato weevil.

(b) In the State of Louisiana

(1) The entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, DeSoto, East Baton Rouge, East Feliciana, Evangeline, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Red River, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Feliciana.

Pink Bollworm

(*Pectinophora gossypiella Saunders*)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

Arizona

(1) Generally infested area: the entire state.

California

(1) Generally infested area: the entire counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

(2) Suppressive area: the entire counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, and Tulare.

Nevada

(1) Generally infested area: the entire counties of Clark and Nyle.

(2) Suppressive area: none.

New Mexico

(1) Generally infested area: the entire state.

Texas

(1) Generally infested area: the entire state.

Phytophagous Snails

The states of Arizona and California.

Sugarcane Pests and Diseases

All states outside Louisiana.

Lethal Yellowing

The states of Florida and Texas.

Tristeza, Xyloporosis, Psorosis, Exocortis

All citrus growing areas of the United States.

Burrowing Nematode

(*Radopholus similis*)

The States of Florida and Hawaii and the Commonwealth of Puerto Rico.

Oak Wilt

(*Ceratocystis fagacearum*)

Arkansas

(1) Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Izard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

Illinois

(1) Entire state.

Indiana

(1) Entire state.

Iowa

(1) Entire state.

Kansas

(1) Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

Kentucky

(1) Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart, Henderson, Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster.

Maryland

(1) Infected Counties: Allegany, Frederick, Garrett, and Washington.

Michigan

(1) Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

Minnesota

(1) Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

Missouri

(1) Entire state.

Nebraska

(1) Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.

North Carolina

(1) Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

Ohio

(1) Entire state.

Oklahoma

(1) Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, Mcintosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

Pennsylvania

(1) Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huningdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

South Carolina

(1) Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland.

Tennessee

(1) Infected Counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

Texas

(1) Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson.

Virginia

(1) Infected counties: Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

West Virginia

(1) Infected counties: all counties except Tucker and Webster.

Wisconsin

(1) Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

Phony Peach

Alabama

(1) Entire state.

Arkansas

(1) Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

Florida

(1) Entire state.

Georgia

(1) Entire state.

Kentucky

(1) County of McCracken.

Louisiana

(1) Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

Mississippi

(1) Entire state.

Missouri

(1) County of Dunklin.

North Carolina

(1) Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

South Carolina

(1) Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

Tennessee

(1) Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

Texas

(1) Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

Citrus Canker

(*Xanthomonas axonopodis pv. citri*)

Any areas designated as quarantined under the Federal Citrus Canker quarantine 7 CFR 301.75 et seq.

Pine Shoot Beetle

[*Tomicus piniperda (L.)*]

Illinois

(1) Counties of Boone, Bureau, Carroll, Champaign, Clark, Coles, Cook, DeKalb, De Witt, DuBage, Grundy, Henry, Iroquois, Kane, Kankakee, Kendall, Lake, LaSalle, Lee, Livingston, Macon, Marshall, Mason, McHenry, McLean, Moultrie, Ogle, Peoria, Piatt, Putnam, Shelby, Stephenson, Tazewell, Vermilion, Whiteside, Will, Winnebago, and Woodford.

Indiana

(1) Counties of Adams, Allen, Bartholomew, Benton, Blackford, Boone, Brown, Carroll, Cass, Clinton, DeKalb, Delaware, Elkhart, Fayette, Fountain, Franklin, Fulton, Grant, Hamilton, Hancock, Hendricks, Henry, Howard, Huntington, Jasper, Jay, Johnson, Kosciusko, LaGrange, Lake, LaPorte, Madison, Marion, Marshall, Miami, Montgomery, Monroe, Morgan, Newton, Noble, Owen, Parke, Porter, Pulaski, Putnam, Randolph, Rush, Shelby, St. Joseph, Starke, Steuben, Tippecanoe, Tipton, Union, Vermillion, Wabash, Warren, Wayne, Wells, White and Whitley.

Maine

(1) Counties of Franklin and Oxford.

Maryland

(1) Counties of Allegany, Frederick, Garrett, Montgomery and Washington.

Michigan

(1) Counties of Alcona, Allegan, Alpena, Antrim, Arenac, Barry, Bay, Benzie, Berrien, Branch, Calhoun, Cass, Charlevoix, Chippewa, Cheboygan, Clare, Clinton, Crawford, Delta, Dickinson, Eaton, Emmet, Genesee, Gladwin, Grand Traverse, Gratiot, Hillsdale, Huron, Ingham, Ionia, Iosco, Isabella, Jackson, Kalamazoo, Kalkasa, Kent, Lake, Lenawee, Lapeer, Leelanau, Livingston, Luce, Mackinac, Macomb, Manistee, Marquette, Mason, Mecosta, Midland, Missaukee, Monroe, Montcalm, Montmorency, Muskegon, Newaygo, Oakland, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Ottawa, Presque Isle, Roscommon, Saginaw, Sanilac, Schoolcraft, Shiawassee, St. Clare, St. Joseph, Tuscola, Van Buren, Washtenaw, Wayne and Wexford.

New Hampshire

(1) County of Coos.

New York

(1) Counties of Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Cortland, Delaware, Erie, Fulton, Genessee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Otsego, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, St. Lawrence, Sullivan, Tioga, Tompkins, Wayne, Wyoming and Yates.

Ohio

(1) Counties of Allen, Ashland, Ashtabula, Athens, Auglaize, Belmont, Butler, Cameron, Carroll, Champaign, Clark, Columbiana, Coshocton, Crawford, Cuyahoga, Darke, Defiance, Delaware, Erie, Fairfield, Franklin, Fulton, Gallia, Geauga, Greene, Guernsey, Hamilton, Hancock, Hardin, Harrison, Henry, Hocking, Holmes, Huron, Knox, Jefferson, Lake, Licking, Logan, Lorain, Lucas, Madison, Mahoning, Marion, Medina, Mercer, Miami, Monroe, Montgomery, Morgan, Morrow, Muskingum, Noble, Ottowa, Paulding, Perry, Pickaway, Pike, Portage, Preble, Putnam, Richland, Sandusky, Seneca, Shelby, Stark, Summit, Trumbull, Tuscarawas, Union, Van Wert, Vinton, Warren, Washington, Wayne, Williams, Wood and Wyndot.

Pennsylvania

(1) Counties of Allegheny, Armstrong, Beaver, Bedford, Blair, Bradford, Butler, Cambria, Cameron, Centre, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Fulton, Greene, Huntingdon, Indiana, Jefferson, Lawrence, Lycoming, McKean, Mercer, Potter, Somerset, Susquehanna, Tioga, Venango, Warren, Washington, Westmoreland and Wyoming.

Vermont

(1) Counties of Caladonia, Essex, Orleans and Washington.

Virginia

(1) County of Clarke.

West Virginia

(1) The entire state.

Wisconsin

Counties of Grant, Green, Kenosha and Rock.

Any other areas designated as quarantined under the Federal Pine Shoot Beetle quarantine 7 CFR 301.50 et seq.

Bob Odom
Commissioner

0404#036

POTPOURRI

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Baton Rouge Ozone Attainment Demonstration
State Implementation Plan (SIP) Revision

Under the authority of the Louisiana Environmental Quality Act, R. S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Assessment, Environmental Planning Division, Plan Development Section, will submit a revision to the SIP for the five-parish Baton Rouge ozone nonattainment area to implement specific emission reduction control strategies and demonstrate compliance with the one-hour ozone air quality standard. The SIP revision is mandated under the requirements of the 1990 Clean Air Act Amendments.

The Baton Rouge ozone nonattainment area, namely Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge Parishes, did not attain the one-hour National Ambient Air Quality Standards (NAAQS) by November 15, 1999, which was the attainment date for serious nonattainment areas set forth by the Clean Air Act. As a result the U.S. Environmental Protection Agency (EPA), by operation of law, reclassified the Baton Rouge area from serious to severe nonattainment effective June 24, 2003. In accordance with this reclassification, a SIP revision will be submitted to the EPA no later than June 23, 2004.

A public hearing will be held at 1:30 pm on May 25, 2004, in the Galvez Building, Oliver Pollock Room C-111, 602 N. Fifth Street, Baton Rouge, LA. Should individuals with a disability need an accommodation in order to participate, please contact Vivian H. Aucoin at (225) 219-3575 or at the address listed below. Interested persons are invited to attend and submit oral comments on the proposal.

All interested persons are invited to submit written comments concerning the SIP no later than 4:30 p.m., May 28, 2004, to Vivian H. Aucoin, Office of Environmental Assessment, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to vivian.aucoin@la.gov.

A copy of the SIP may be viewed from 8:a.m. to 4:30 p.m. in the DEQ Public Records Center, Room 127, 602 N. Fifth Street, Baton Rouge, LA.

James H. Brent, Ph.D.
Assistant Secretary

0404#053

POTPOURRI

Division of Administration
Office of Community Development

Public Hearing? FY 2003 Consolidated Annual
Performance and Evaluation Report and
Consolidated Plan for FY 2005-FY 2009

As set forth in 24 CFR Part 91, the U.S. Department of Housing and Urban Development (HUD) requires state agencies that administer certain HUD programs to incorporate their planning and application requirements into

one master plan called the Consolidated Plan. In Louisiana the four state agencies participating in this consolidated planning process and the HUD-funded program administered by each agency include the Division of Administration/Office of Community Development (Small Cities Community Development Block Grant Program), the Louisiana Housing Finance Agency (HOME Investment Partnerships Program), the Department of Social Services/Office of Community Services (Emergency Shelter Grants Program), and the Department of Health and Hospitals/HIV/AIDS Program (Housing Opportunities for Persons with AIDS Program). A summary of the four programs follows.

The Small Cities Community Development Block Grant Program provides financial assistance to parishes of less than 200,000 persons and municipalities with a population of less than 50,000 in their efforts to provide a suitable living environment, decent housing, essential community facilities, and expanded economic opportunities. Eligible activities include community infrastructure systems such as water, sewer, and street improvements, community centers, housing rehabilitation, and economic development assistance in the form of grants and loans. Projects funded under this program must principally benefit persons of low and moderate income.

The objectives of the Home Investment Partnerships Program are: to expand the supply of decent and affordable housing for low and very low income persons, to stabilize the existing deteriorating owner occupied and rental housing stock through rehabilitation, to provide financial and technical assistance to recipients/subrecipients, and to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of affordable housing.

The purpose of the Emergency Shelter Grants Program is to help local governments and community organizations to improve and expand shelter facilities serving homeless individuals and families, to meet the cost of operating homeless shelters, to provide essential services, and to perform homeless prevention activities.

The Housing Opportunities for Persons with AIDS Program provides localities with the resources and incentives to devise and implement long-term comprehensive strategies for meeting the housing needs of persons with acquired immuno-deficiency syndrome (AIDS) or related diseases and their families.

The four agencies implementing these programs are preparing their consolidated annual performance and evaluation report for the FY 2003 program year which ended March 31, 2004. The purpose of that document is to report on the progress the state has made in addressing the goals and objectives identified in its Consolidated Plan for FY 2000-FY 2004 and FY 2003 Consolidated Annual Action Plan.

The four agencies administering these programs are also beginning to prepare the Consolidated Plan for FY 2005-FY 2009. The Consolidated Plan will include a one year action plan for the proposed distribution of funds received under the FY 2005 federal funding allocation for the aforementioned four HUD programs.

The state will hold public hearings for a two-fold purpose regarding these programs.

The first purpose of the hearings will be to receive comments on the state's performance during the FY 2003 program year. Copies of the consolidated annual performance and evaluation report will be available for review and each agency will present a summary of its accomplishments as identified in the performance report. For those persons who are unable to attend the public hearings, copies of the performance report will be available for review beginning May 3, 2004, at the Office of Community Development, Claiborne Building, Suite 7-270, 1201 North Third Street in Baton Rouge, at the Louisiana Housing Finance Agency at 2415 Quail Drive in Baton Rouge, at the Department of Social Services/Office of Community Services at 333 Laurel Street, Room 821 in Baton Rouge, and at the Department of Health and Hospitals/HIV/AIDS Program Office at 234 Loyola Avenue, Fifth Floor, in New Orleans. Written comments on the performance report may be submitted beginning May 3, 2004, and will be accepted until May 19, 2004. Comments may be mailed to the Office of Community Development, Post Office Box 94095, Baton Rouge, LA 70804-9095 or faxed to 225-342-1947.

The second purpose of the hearings will be to obtain views on the housing and community development needs throughout the state; those comments will assist the agencies in developing the Consolidated Plan for FY 2005-FY 2009. For those persons who are unable to attend the public hearings, written comments on the needs of the state may be submitted beginning May 3, 2004, and will be accepted until May 19, 2004. Written comments may be mailed to the Office of Community Development, Post Office Box 94095, Baton Rouge, LA 70804-9095 or faxed to 225-342-1947.

The public hearings will be held on May 3, 2004, at 1:30 p.m. in the meeting room of the West Baton Rouge Parish Library, 830 North Alexander Avenue, Port Allen, LA, and at 1:30 p.m. on May 4, 2004, in the Council Chambers at the Pineville City Hall, 910 Main Street, Pineville, LA. These facilities are accessible to persons with physical disabilities. Non-English speaking persons and persons with other disabilities requiring special accommodations should contact the Office of Community Development at 225-342-7412 or Louisiana Relay Service TDD 800-846-5277 or at the mailing address or fax number in the preceding paragraph at least five working days prior to each hearing.

Jerry Luke LeBlanc
Commissioner

0404#061

POTPOURRI

Department of Health and Hospitals
Office of Public Health

Public Hearing? Preventive Health
and Health Services Block Grant

The Department of Health and Hospitals, Office of Public Health, will hold a public hearing to receive input from the public on the Louisiana Preventive Health and Health Services Block Grant as administered annually by

DHH/OPH. The public hearing will take place on May 12, 2004, beginning at 9 a.m. in Room 118 of the Blanche Appleby Computer Complex Building (on the Jimmy Swaggart Ministries Campus), 6867 Bluebonnet Blvd., Baton Rouge, Louisiana.

All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. A copy of the grant may be obtained from Avis Richard-Griffin, DHH/OPH/Center for Health Policy, Information and Promotion/Policy, Planning and Evaluation Section. You may also contact Ms. Griffin at 1201 Capitol Access Road, Bin 4, Baton Rouge, LA 70804 or by telephone at (225) 342-1865 for additional information.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0404#081

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
Charles R. Houssiere, Jr., Inc.	Jennings	L	Donnelly et al.	001	071854
Leonard J. Maxwell	Jennings	L	Heywood	003	025964
Harold Bates	Monroe	M	Bates Fee	1	086119
F & F Drilling Company	Wildcat-No La	S	Nunley	3	013545
Texas Liberty Gas Corporation	Bayou Rambio	L	Lawrence Voision et al.	002	088194
C. L. Morris, Inc.	West Catahoula Lake	M	Urania Lbr. Co .	001-SWD	070224 (30)
L. B. Wright, Inc.	Port Barre	L	J. C. Cormier et al.	002	077694 (30)

James H. Welsh
Commissioner

0404#060

POTPOURRI

Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 32 claims in the amount of $90,334.66 were received for payment during the period March 1, 2004-March 31, 2004.

There were 29 claims paid and 3 claims denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2906.895	9126.861	Jefferson
2908.190	9007.200	Lafourche
2908.903	9006.214	Jefferson
2911.969	9020.497	Lafourche
2911.990	9020.460	Lafourche
2913.180	9003.100	Jefferson
2914.654	8942.608	Plaquemines
2915.025	9035.273	Terrebonne
2916.590	9122.760	St Mary
2917.048	8953.700	Jefferson
2917.550	8950.640	Jefferson
2922.016	8935.984	Plaquemines
2923.251	9002.430	Jefferson
2923.559	8958.149	Jefferson
2924.350	9148.300	Iberia
2925.060	9135.560	St Mary
2925.391	9032.018	Terrebonne
2925.422	9033.233	Terrebonne
2930.055	9002.747	Jefferson
2931.060	9138.393	St Mary
2936.180	8933.450	Plaquemines
2937.437	9006.990	Jefferson
2937.502	9139.809	Iberia
2937.514	9007.184	Jefferson
2939.283	9147.390	St Mary
2940.030	9006.790	Jefferson
2942.801	8933.090	St Bernard
2983.875	8916.324	St Bernard
3003.516	8941.316	St Bernard
4142.130	9003.298	Jefferson

A list of claimants and amounts paid can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225)342-0122.

Scott A. Angelle
Secretary

0404#074

POTPOURRI

Department of Revenue
Policy Services Division

Natural Gas Severance Tax Rate

The natural gas severance tax rate, effective July 1, 2004, through June 30, 2005, has been set at 20.8 cents per thousand cubic feet (MCF) measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of 60 degrees Fahrenheit.

This tax rate is set each year by multiplying the natural gas severance tax base rate of 7 cents per MCF by the "gas base rate adjustment" determined by the Secretary of the Department of Natural Resources in accordance with R.S. 47:633(9)(d)(i). The "gas base rate adjustment" is a fraction, of which the numerator is the average of the New York Mercantile Exchange (NYMEX) Henry Hub settled price on

the last trading day for the month, as reported in the Wall Street Journal for the previous 12-month period ending on March 31, and the denominator is the average of the monthly average spot market prices of gas fuels delivered into the pipelines in Louisiana as reported by the Natural Gas Clearing House for the 12-month period ending March 31, 1990 (1.7446 $/MMBTU).

Based on this computation, the Secretary of the Department of Natural Resources has determined the natural gas severance "gas base rate adjustment" for April 1, 2003 through March 31, 2004, to be 296.44 percent. Applying this gas base rate adjustment to the base tax rate of 7 cents per MCF produces a tax rate of 20.8 cents per MCF effective July 1, 2004, through June 30, 2005. The reduced natural gas severance tax rates provided for in R.S. 47:633(9)(b) and (c) remain the same.

The "gas base rate adjustment" and the "gas tax rate" are being published as required by R.S. 47:633(9)(d)(i). Questions concerning the natural gas severance tax rate should be directed to the Taxpayer Services Division, Severance Tax Section at (225) 219-2200.

Cynthia Bridges
Secretary

0404#035

POTPOURRI

Department of Social Services
Bureau of Licensing

Applications for Licensing

The DSS Bureau of Licensing is announcing that, effective July 1, 2004, all providers who are licensed through this office will be solely responsible for obtaining the required forms to apply for the renewal of a license for all of the 15 programs for which this office is responsible.

Applications for renewal of a license to continue operating a child day care center, adult day care center, adult residential facility, child residential facility, adoption agency, foster care agency, emergency shelter, family support services, infant intervention services, maternity home, personal care attendant services, respite care services, supervised independent services, or transitional living facility, shall be made to the Bureau of Licensing at least 30 calendar days prior to the anniversary date of the current license and shall be on the required form.

Application forms can be downloaded from the Licensing website at: http://www.dss.state.la.us/departments/os/Licensing_.html Computer access is available at all public libraries.

A renewal of a license shall be issued if, upon investigation, the provider continues to meet and maintain minimum standards prescribed by the department and the annual fee is paid.

If the application for renewal and fee are not received timely (30 days prior to the provider's anniversary date) and the application is not completed thoroughly and accurately, the provider's license will expire on the expiration date shown on the license. If the provider continues to operate the facility after the expiration date, the provider will be reported to the DSS General Counsel for operating an unlicensed facility.

This cost saving measure has become necessary as the Bureau of Licensing seeks ways to operate more efficiently and perform quality work.

All currently-licensed providers will be sent a notice alerting them to this change.

Ann Silverberg Williamson
Secretary

0404#100

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