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# Executive Orders

## EXECUTIVE ORDER MJF 01-50

Bond Allocation  
Louisiana Local Government  
Environmental Facilities and Community  
Development Authority

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 2001 (hereafter "the 2001 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2001 Ceiling; and

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

WHEREAS, the Louisiana Local Government Environmental Facilities and Community Development Authority has requested an allocation from the 2001 Ceiling to be used in connection with a program to provide financing for the acquisition, construction, and installation of certain solid waste and sewage disposal facilities at the Shreveport plant complex of BASF Corporation located at 8800 Line Avenue, city of Shreveport, parish of Caddo, state of Louisiana, and at the Geismar plant of BASF Corporation located in the parish of Ascension, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the private activity bond volume limits for the calendar year of 2001 as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$8,000,000	Louisiana Local Government Environmental Facilities and Community Development Authority	BASF Corporation

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2001, provided that such bonds are delivered to the initial purchasers thereof on or before December 21, 2001.

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

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 14th day of November, 2001.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0112#001

## EXECUTIVE ORDER MJF 01-51

Bond Allocation  
Industrial Development Board  
of the Parish of Calcasieu, 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 2001 (hereafter "the 2001 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2001 Ceiling; and

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

WHEREAS, the Industrial Development Board of the Parish of Calcasieu, Inc., has requested an allocation from the 2001 Ceiling to be used in connection with a program to provide financing for the acquisition, construction and installation of certain wastewater treatment facilities at the refinery facilities of CITGO Petroleum Corporation located at 4401 Highway 108, Lake Charles, parish of Calcasieu, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the

private activity bond volume limits for the calendar year of 2001 as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$3,000,000	Industrial Development Board of the Parish of Calcasieu, Inc.	CITGO Petroleum Corporation

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2001, provided that such bonds are delivered to the initial purchasers thereof on or before December 21, 2001.

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

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 14th day of November, 2001.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0112#002

**EXECUTIVE ORDER MJF 01-52**

Bond Allocation Industrial District No. 3 of the Parish of West Baton Rouge, State of Louisiana

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 2001 (hereafter "the 2001 Ceiling");
- (2) the procedure for obtaining an allocation of bonds under the 2001 Ceiling; and
- (3) a system of central record keeping for such allocations; and

WHEREAS, the Industrial District No. 3 of the parish of West Baton Rouge, state of Louisiana, has requested an allocation from the 2001 Ceiling to be used in connection with a program to provide financing for the acquisition, construction and installation of certain water pollution control facilities at the chemical plant complex of The Dow Chemical Company located at the corner of Woodland Road and the east side of Louisiana Highway No. 1 Frontage Road, approximately 2-1/2 miles north of city of Plaquemine, parish of West Baton Rouge, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the private activity bond volume limits for the calendar year of 2001 as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$4,000,000	Industrial District No. 3 of the Parish of West Baton Rouge, State of Louisiana	The Dow Chemical Company

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2001, provided that such bonds are delivered to the initial purchasers thereof on or before December 21, 2001.

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

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 14th day of November, 2001.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0112#003

**EXECUTIVE ORDER MJF 01-53**

Bond Allocation Parish of Ascension,  
State of Louisiana

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 2001 (hereafter "the 2001 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2001 Ceiling; and

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

WHEREAS, the parish of Ascension, state of Louisiana, has requested an allocation from the 2001 Ceiling to be used in connection with a program to provide financing for the acquisition, construction, and installation of certain solid waste and disposal facilities for Shell Chemical, LP, at its Geismar Plant in the unincorporated area of the parish of Ascension, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the private activity bond volume limits for the calendar year of 2001 as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$4,000,000	Parish of Ascension, State of Louisiana	Shell Chemical, LP

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2001, provided that such bonds are delivered to the initial purchasers thereof on or before December 21, 2001.

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

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified,

terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 14th day of November, 2001.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0112#004

**EXECUTIVE ORDER MJF 01-54**

Bond Allocation Louisiana Local Government  
Environmental Facilities and Community  
Development Authority

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 2001 (hereafter "the 2001 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2001 Ceiling; and

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

WHEREAS, the Louisiana Local Government Environmental Facilities and Community Development Authority has requested an allocation from the 2001 Ceiling to be used in connection with a program to provide financing for the construction and installation of certain solid waste disposal facilities at Honeywell International, Inc.'s plant located in the parish of Ascension, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the private activity bond volume limits for the calendar year of 2001 as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$4,000,000	Louisiana Local Government Environmental Facilities and Community Development Authority	Honeywell International, Inc.

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2001, provided that such bonds are delivered to the initial purchasers thereof on or before December 21, 2001.

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

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 14th day of November, 2001.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0112#005

**EXECUTIVE ORDER MJF 01-55**

Bond Allocation C Parish of Morehouse, State of Louisiana

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 2001 (hereafter ~~A~~the 2001 Ceiling@);

(2) the procedure for obtaining an allocation of bonds under the 2001 Ceiling; and

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

WHEREAS, the parish of Morehouse, state of Louisiana, has requested an allocation from the 2001 Ceiling to be used in connection with a program to provide financing for the acquisition, construction, and installation of certain sewage and solid waste disposal facilities at International Paper Company's pulp and paper mill located at 705 Colliers Lane, city of Bastrop, parish of Morehouse, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the

private activity bond volume limits for the calendar year of 2001 as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$3,000,000	Parish of Morehouse, State of Louisiana	International Paper Company

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2001, provided that such bonds are delivered to the initial purchasers thereof on or before December 21, 2001.

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

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 14th day of November, 2001.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0112#006

**EXECUTIVE ORDER MJF 01-56**

Bond Allocation C Louisiana Public Facilities Authority

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 2001 (hereafter ~~A~~the 2001 Ceiling@);

(2) the procedure for obtaining an allocation of bonds under the 2001 Ceiling; and

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

WHEREAS, the Louisiana Public Facilities Authority has requested an allocation from the 2001 Ceiling



to be used in connection with a program to provide financing for the continued expansion and upgrade of water utility plants in the parishes of East Baton Rouge and Ascension, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the private activity bond volume limits for the calendar year of 2001 as follows:

<b>Amount of Allocation</b>	<b>Name of Issuer</b>	<b>Name of Project</b>
\$7,851,000	Louisiana Public Facilities Authority	Baton Rouge Water Company

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2001,

provided that such bonds are delivered to the initial purchasers thereof on or before December 21, 2001.

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

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 14th day of November, 2001.

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

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0112#007

# Emergency Rules

## DECLARATION OF EMERGENCY

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

Commercial Laboratories Pending Accreditation  
(LAC 33:I.4501 and 4719)(OS039E)

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

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

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

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

This emergency rule is effective on November 16, 2001, 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 OS039E, you may contact the Regulation Development Section at (225) 765-0399.

Adopted this 16th day of November, 2001.

## Title 33

### ENVIRONMENTAL QUALITY

#### Part I. Office of the Secretary

#### Subpart 3. Laboratory Accreditation

#### Chapter 45. Policy and Intent

#### §4501. Description and Intent of Program

A. - D. ...

E. This Subpart shall not apply to the following:

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

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

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

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

#### Chapter 47. Program Requirements

#### §4719. Implementation

A. - B. ...

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

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

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

3. have paid appropriate fees.

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

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

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

J. Dale Givens  
Secretary

0112#010

# DECLARATION OF EMERGENCY

## Department of Environmental Quality Office of the Secretary

Revision of Emission Reduction Credits Banking and  
Control of Nitrogen Oxides Emissions  
(LAC 33:III.Chapter 6 and 22) (AQ211E and 215E)

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 rules effective December 20, 2001, for 120 days, or until promulgation of the final rules, whichever occurs first.

This action is necessary to meet the requirements of the United States Environmental Protection Agency (EPA) for granting an extension of the attainment date to prevent the reclassification from "serious" to "severe" of the Baton Rouge ozone nonattainment area. This area includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge.

The State of Louisiana has requested an extension of the attainment date imposed by the 1990 amendments to the Clean Air Act, pursuant to EPA's transport policy. The state has committed to the EPA to submit the necessary documentation to demonstrate transport and revisions to the State Implementation Plan (SIP) by December 31, 2001. The EPA has provided notice in the *Federal Register* of its intent to review and possibly grant such extension request when submitted or in the alternative to reclassify the Baton Rouge nonattainment area. Failure to submit the transport demonstration and revisions to the SIP would result in the Baton Rouge nonattainment area being reclassified from "serious" to "severe." A reclassification would have detrimental effects on the operations of the department, the local economy, and the citizens of the area without any significant benefit, including improved air quality. Several other parties, including local governments, trade organizations, and industry, have expressed agreement with such conclusion.

The proposed SIP revision involves the adoption of certain new rules, including the adoption of air pollution control standards for emissions of oxides of nitrogen (NO<sub>x</sub>) and revisions to the existing emission reduction credits banking regulations. These rules were proposed in accordance with regular rulemaking procedures on July 20, 2001, as AQ211 (LAC 33:III.Chapter 6C Banking) and on August 20, 2001, as AQ215 (LAC 33:III.Chapter 22CNO<sub>x</sub>). During the comment period for the proposed rules the department received significant public comment and, as a result, is proposing substantive changes to these rules, as AQ211S and AQ215S.

In order that the transport demonstration and revisions to the SIP may be submitted to the EPA in accordance with the commitment previously made, the department hereby adopts Emergency Rules AQ211E and AQ215E. The Emergency Rules include the proposed rule language that has been modified to include substantive amendments. The Emergency Rules shall be effective for 120 days or until

promulgation of final Rules AQ211S and AQ215S, whichever occurs first.

Adopted this 10th day of December, 2001.

NOTE: LAC 33:III.Chapter 6 is designated as

Emergency Rule AQ211E.

### Title 33

## ENVIROMENTAL QUALITY

### Part III. Air

#### Chapter 6. Regulations on Control of Emissions Through the Use of Emission Reduction Credits Banking

##### §601. Purpose

A. This Chapter establishes the means of enabling stationary sources to identify and preserve or acquire emission reductions for New Source Review (NSR) offsets. The pollutants to which this rule applies are nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOC).

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 20:874 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

##### §603. Applicability

A. Major stationary sources are subject to the provisions of this Chapter for the purpose of utilizing emission reductions as offsets in accordance with LAC 33:III.504 and 510. Minor stationary sources located in ozone nonattainment areas or Calcasieu Parish may submit ERC applications for purposes of banking. Other sources located in EPA-designated ozone attainment areas may not participate in the emissions banking program. Any stationary point source at an affected facility is eligible to participate.

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 20:874 (August 1994), amended LR 24:2239 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:

##### §605. Definitions

A. The terms used in this Chapter are defined in LAC 33:III.111 with the exception of those terms specifically defined as follows:

*Actual Emissions* the actual rate of emissions of an air pollutant from a source operation, equipment, or control apparatus. Actual emissions shall be calculated using the actual operating hours, production rates, and types of materials used, processed, stored, or combusted during the baseline period. Acceptable methods for estimating the actual emissions may include, but are not limited to, any one or a combination of the following:

a. emission factors based on EPA's Compilation of Air Pollutant Emission Factors (AP-42) or other emission factors approved by the department, if better source specific data are not available;

b. fuel usage records, production records, purchase records, material balances, engineering calculations (approved by the department), source tests, waste disposal records, and emission reports such as emission inventory reports, SARA Title III, or MACT compliance certifications.

*Allowable Emissions*—the emissions rate of a stationary point source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits that restrict the operating rate, hours of operations, or both) and the most stringent of the following:

- a. an applicable standard set forth in 40 CFR part 60, 61, or 63;
- b. any applicable state implementation plan (SIP) emissions limitation, including those with a future compliance date;
- c. applicable emission limitations specified as an enforceable permit condition, including best available control technology (BACT) and lowest achievable emission rate (LAER) requirements, including those with a future compliance date; or
- d. applicable acid rain SO<sub>2</sub> and NO<sub>x</sub> control requirements as defined under Title IV of the 1990 Clean Air Act Amendments and subsequent regulations.

*Bank*—the repository for ERCs, including the ERC banking database.

*Bankable Emission Reductions*—reductions of NO<sub>x</sub> or VOC that meet the provisions of this Chapter at the time of review and approval.

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[See Prior Text]

*Banking Database*—the department database that records all ERC deposits, withdrawals, transfers, and transactions.

*Base Case Inventory*—the aggregate point-source emissions inventory from the nine modeled parishes, as modeled for the 2005 Attainment Plan and Transport Demonstration SIP dated December 2001, which includes 1997 actual emissions from point sources, banked ERC and pending ERC applications where the emission reduction occurred between January 1, 1990 and December 31, 1997, and adjustments for growth.

*Baseline Emissions*—the level of emissions during the baseline period, as calculated in accordance with LAC 33:III.607.C.4, that occur prior to an emission reduction, considering all limitations required by applicable federal and state regulations, below which any additional reductions may be credited for use as offsets.

*Baseline Period*—the period of time over which the historical emissions of a source are averaged. In general, this period shall be a two-year period that precedes the date of the emission change and that is representative of normal major stationary source operation. A different time period shall be allowed upon a determination by the department that it is more representative of normal major stationary source operation.

*Emission Reductions*—the decreases in emissions associated with a physical change or change in the method of operation at a facility.

*Emission Reduction Credit (ERC)*—an emission reduction approved by the department in accordance with the requirements of this Chapter that is surplus, enforceable, permanent, and quantifiable.

*Emission Reduction Credit Certificate (ERC Certificate)*—a document indicating possession of a defined quantity and type of ERCs and issued by the department to the owner(s) identified on the certificate.

*Enforceable*—as applied to emission reductions, means of making emission limits enforceable include source-specific SIP revisions, limitations contained in permits issued in accordance with LAC 33:III.Chapter 5, and EPA-issued or department-issued enforcement instruments such as orders or settlement agreements.

*Modeled Emissions*—for a given point source, the emissions reported in the emissions inventory used in the most recent SIP attainment demonstration base case inventory.

*Modeled Parishes*—the parishes of Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, and West Feliciana.

*Netting*—use of an emission reduction created at an existing stationary source to compensate for emission increases associated with a proposed modification at the same stationary source and to, thus, avoid the requirements of new source review. Emission reductions used for netting are always internal to the source seeking credit.

*Offset*—a legally enforceable reduction, approved by the department, in the rate of actual emissions from an existing stationary point source, which is used to compensate for a significant net increase in emissions of NO<sub>x</sub> or VOC from a new or modified stationary source in accordance with the requirements of LAC 33:III.504 or 510. To be valid, an offset must meet the definition of ERC.

*Permanent*—as applied to emission reductions, the method of achieving the reduced level of emissions is fixed or ongoing. For example, installation of permanent control equipment or elimination of emission units.

*Quantifiable*—in reference to emission reductions, the amount, rate, and characteristics of the emission reduction can be estimated through a reliable method. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, process parameters, production inputs, modeling, or other reasonable measurement practices. The same method of calculating emissions should generally be used to quantify emission levels both before and after the reduction.

*Stationary Point Source*—any building, structure, facility, or installation that emits or may emit any air pollutant subject to regulation under the Clean Air Act. For purposes of this Chapter, stationary point sources shall include fugitive emissions.

*Surplus*—emission reductions that are voluntarily created for an emissions unit and have not been required by any state or federal law or regulation and are in excess of reductions used to demonstrate attainment of national ambient air quality standards at the time a permit is issued that relies upon the reductions as offsets.

*Transfer*—the conveyance of an ERC from one entity to another. All banking transactions shall be recorded in the ERC banking database and shown as debits and credits for the appropriate entity(ies).

**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 20:874 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 26:2448 (November 2000), LR 28:

**§607. Determination of Creditable Emission Reductions**

A. Acceptable Methods of Creation. Methods of reducing emissions to receive credit under this Chapter include, but are not limited to, the following:

1. installation of add-on control equipment;
2. change in process(es);
3. change in process inputs, formulations, products or product mix, or raw materials (an actual emission reduction resulting from more effective operation and maintenance of abatement and process equipment if the applicant accepts a permit provision specifying a lower level of emission);
4. shutdown of emission units or stationary sources;
5. production curtailment(s); and
6. reductions in operating hours.

B. Criteria for ERC Approval

1. Emission reductions shall be recognized as ERCs only after the approval of the department has been obtained. The department shall approve emission reductions as ERCs that are determined to be surplus, permanent, quantifiable, and enforceable, as defined in LAC 33.III.605.

2. Emission reductions may be creditable for use as offsets for up to 10 years from the date of the actual emission reduction to the atmosphere. An ERC is considered to be used upon issuance of a permit that relies upon the ERC as offsets.

C. Procedures for Calculating the Surplus Emission Reduction. The following procedures shall be used in calculating the quantity of surplus air emission reductions:

1. the department shall compare the current total point-source emissions inventory from EIS for the modeled parishes to the base case inventory;

2. calculate actual emissions during the baseline period;

3. calculate adjusted allowable emissions. Allowable emissions shall be adjusted to account for all new or revised federal or state regulations adopted that will require, or would have required, all or a portion of the emission reductions that comprise the ERC application or ERC (in the case of a partial use of a previously approved ERC);

4. quantify baseline emissions as follows:

a. for stationary sources located in ozone nonattainment areas:

i. if the current total point-source inventory for the modeled parishes exceeds the base case inventory, baseline emissions may not exceed the quantity of emissions attributed to the stationary point source(s) in question in that model. In this case, baseline emissions shall be the lower of actual emissions, adjusted allowable emissions in accordance with Paragraph C.3 of this Section, or modeled emissions; or

ii. if the current total point-source inventory for the modeled parishes does not exceed the base case inventory, baseline emissions shall be the lower of actual emissions or adjusted allowable emissions in accordance with Paragraph C.3 of this Section; and

b. for stationary sources located in Calcasieu Parish or any parish redesignated as ozone nonattainment by the EPA after December 20, 2001, baseline emissions shall be the lower of actual emissions or adjusted allowable emissions in accordance with Paragraph C.3 of this Section;

5. calculate allowable emissions after the reductions occurred; and

6. calculate the surplus emission reduction by subtracting the allowable emissions after the reduction occurred from the baseline emissions.

D. Adjustments for Netting. Emission reductions used in a netting analysis (i.e., to determine the *net emissions increase* as defined in LAC 33:III.504 or 509, as appropriate) that prevented the increase from being considered "significant" are not eligible for use as offsets. The quantity of emission reductions utilized to "net out" shall not be considered creditable.

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 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:

**§611. Mobile Sources Emission Reductions—Reserved Repealed.**

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 20:881 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2448 (November 2000), repealed LR 28:

**§613. ERC Bank Recordkeeping and Reporting Requirements**

A. Recordkeeping Requirements. All records shall be maintained for the life of the ERC and shall be available, upon request, for inspection by the department. Amounts should be specified in tons per year.

1. For each approved ERC certificate or pending ERC application, each owner shall maintain records of the following:

a. a complete description of all projects that generated or required use of ERCs;

b. ERC deposits applied for, but not yet approved (i.e., applications);

c. approved ERC deposits;

d. ERCs used as offsets;

e. ERCs that have expired;

f. ERCs transferred to another party;

g. adjustments to the ERC balance to account for new emission reduction requirements and netting in accordance with LAC 33.III.607;

h. the date of each transaction (for applications, the date on which the application was submitted; for deposits, the date the ERC Certificate was issued; for ERC used as offsets, the date on which the permit was issued that relied upon the ERC as offsets; for transfers, the date of sale; for adjustments, the date on which a regulation was promulgated that required, or would have required, all or a portion of the emission reductions that comprise the ERC or ERC application, or the date on which the permit was issued that relied upon a reduction (that was either banked as ERC or part of an ERC application) to "net out"); and

i. the current ERC balance.

2. For each emission reduction that will be part of an ERC bank application or permit application for construction or modification that requires offsets, the owner shall maintain records of the following:

- a. the year(s) determined to be the baseline period;
- b. actual emissions (TPY) before the start-up of the project as evaluated over the baseline period;
- c. allowable emissions for the affected sources;
- d. the date of the actual emissions decrease;
- e. allowable emissions or proposed allowable emissions, as appropriate, after the project (TPY);
- f. the emission change; and
- g. any emission reductions that are required or would have been required by all applicable federal and state regulations promulgated before and after the emission reduction.

#### B. Reporting Requirements

1. All emission reduction applications must meet the timing restrictions set forth in LAC 33:III.615.A and B in order to be eligible for banking as ERCs.

2. An annual report summarizing all records required by Subsection A of this Section shall be submitted to the department by March 31 of each year. This submittal shall be certified as specified in Subsection C of this Section and submitted to the Office of Environmental Services, Permits Division, in a format specified by the department.

3. Sources located in EPA-designated ozone attainment areas subject to LAC 33:III.510 shall submit the summary report required by Paragraph B.2 of this Section according to the schedule outlined in LAC 33:III.510.C.1.

C. Certification. A certifying statement signed by the responsible official as defined in LAC 33:III.502 shall accompany each ERC annual report to attest that the information contained in the report is true and accurate to the best knowledge of the certifying official. The certification shall include the full name, title, and signature of the certifying official and the date of signature.

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 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 26:486 (March 2000), LR 26:2449 (November 2000), LR 28:

#### §615. Schedule for Submitting Applications

A. All applications for banking emission reductions shall be submitted by March 31 following the year in which the reductions occurred. ERC applications can be submitted in the form of an ERC bank application or as part of a permit application for construction or modification that requires offsets. Failure to apply for ERCs by March 31 will invalidate the emission reductions as offsets.

B. If a parish is redesignated as ozone nonattainment by the EPA, applications for banking ERCs in such parish must be submitted by March 31 of the year following the effective date of the EPA designation.

C. Sources subject to LAC 33:III.510 shall submit applications for banking ERCs according to the schedule outlined in LAC 33:III.510.C.1.

D. Applications for banking emission reductions that are to be made as part of a project that includes an increase in emissions for which the reduction will serve to offset the

increase may be submitted as part of the permit application for the proposed increase. Such reductions will be reviewed for applicability as ERCs concurrently with the review of the permit application.

E. The applicant shall speciate VOC according to individual compounds when applying to bank VOC reductions. Speciation of toxic air pollutants regulated in LAC 33:III.Chapter 51 is required.

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 20:878 (August 1994), amended LR 21:681 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1623 (September 1999), LR 26:486 (March 2000), LR 28:

#### §617. Procedures for Review and Approval of ERCs

A. The department's review and approval of an application for ERCs generally shall be conducted when a request is submitted to use the reductions as offsets. The review shall be conducted in accordance with LAC 33:III.607.

B. Preliminary Decision to Approve the ERC. Upon making a preliminary decision to approve any ERC, the department shall provide public notice of its decision. The public notice shall include the name and address of the applicant, the proposed quantity and type of emission reductions to be approved, an explanation of the department's initial assessment, the opportunity and time periods to submit written public comments concerning the application, and the name and address of the person to whom public comments and requests for public hearings should be sent. A period of 30 days after the date of publication will be allowed for public comment. The notice of preliminary approval may be incorporated with a notice of preliminary approval of an air permit for which the ERC will be used as offsets. If the notice of preliminary approval is not associated with an air permit, the department's preliminary decision relates only to the banking of the emission reductions and not to the use of the ERCs.

#### C. ERC Certificates

1. Issuance of ERC Certificates. Upon conclusion of the 30-day comment period provided in Subsection B of this Section, the department shall render a decision as to whether the department approves or disapproves the application. If the department decides to approve the ERC, the department shall issue an ERC certificate to the owner(s). A copy of the ERC certificate shall be retained by the department, and the original shall be delivered to the owner(s). The issued ERC certificate shall be recorded in the banking database.

2. Upon issuance of a permit that relies upon the use of approved ERCs as offsets, the department shall be responsible for recalculating the ERC balance for that entity and for providing that entity with an adjusted ERC certificate. In the case of a partial use of an ERC from an emission reduction project, the department shall issue a new certificate reflecting the available credits remaining. The remaining ERC(s) shall be reviewed again in accordance with LAC 33:III.607 at the time a request is received to use the remaining portion.

3. Transfer of ERCs. An ERC certificate may be transferred in whole or in part. The role of the department in the transfer of an ERC certificate shall be limited to

providing information to the public, documenting ERC transfers, and registering ERC certificates. The department shall be notified by letter within 30 days of any transfer of an ERC to another party. This correspondence should indicate the new owner, the previous owner, the amount of ERC transferred, and the date of transfer. The department shall then issue a certificate indicating the new owner. In the case of a partial transfer, the department shall issue a new certificate to the new owner as well as a revised certificate to the current owner reflecting the available credits to each owner. The banking database shall be adjusted accordingly.

D. Appeals. The owner(s) may appeal the department's decision following provisions specified in R.S. 30:2024.

E. Request for Recalculation of ERCs. Anytime after the original ERC application is submitted, the applicant may request the recalculation of the ERCs for the purpose of using alternative baseline emissions, an alternative baseline period, or availability of more accurate emissions data (i.e., performance test data, etc.). The review and approval of this recalculation request shall follow the same procedure as set forth in this Section.

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 20:878 (August 1994), amended by Office of Environmental Assessment, Environmental Planning Division, LR 28:

#### **§619. Emission Reduction Credit Bank**

A. The department shall maintain a banking database that shall consist of a record of all information concerning applications, deposits, withdrawals, and transactions, as well as pertinent date(s) concerning such information. All data in the banking database shall be available to the public upon request. B. ERC Certificates. Certificates shall be issued for approved ERCs. A record of each ERC certificate issued shall be retained by the department. Each ERC certificate shall, at minimum:

1. bear the date of issuance;
2. be signed by the permitting authority;
3. include the owner(s)' name(s) and address(es);
4. state the name of the stationary source where the emission reduction occurred;
5. indicate the method of ERC creation;
6. show the quantity of the ERC and type of pollutant; and
7. show when the emission reduction occurred.

C. Multiple ERC Certificates and Multiple Ownership. Single or multiple ERC certificates may be issued for a particular emission reduction project. At the owner(s)' request, multiple ERC certificates shall be issued for each owner's proportional share.

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 20:879 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2449 (November 2000), LR 28:

#### **§621. Protection of Banked ERCs**

Repealed.

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 20:879 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1623 (September 1999), repealed LR 28:

#### **§623. Withdrawal, Use, and Transfer of Emission Reduction Credits**

Repealed.

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 20:880 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2449 (November 2000), repealed LR 28:

#### **§625. Application and Processing Fees**

Repealed.

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 20:880 (August 1994), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

NOTE: LAC 33:III.Chapter 22 is designated as Emergency Rule AQ215E.

### **Chapter 22. Control of Emissions of Nitrogen Oxides (NO<sub>x</sub>)**

#### **§2201. Affected Facilities in the Greater Baton Rouge NO<sub>x</sub> Control Area**

##### **A. Applicability**

1. The provisions of this Chapter shall apply to any affected facility in the Greater Baton Rouge NO<sub>x</sub> Control Area (i.e., the entire parishes of Ascension, East Feliciana, East Baton Rouge, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, and West Feliciana).

2. The provisions of this Chapter shall apply during the ozone season (May 1 to September 30) of each year.

3. All affected facilities shall be in compliance as expeditiously as possible, but by no later than the dates specified in Subsection J of this Section.

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.

*Administrator*—the administrator, or an authorized representative, of the U. S. Environmental Protection Agency (EPA).

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

*Affected Facility*—any facility within the Greater Baton Rouge NO<sub>x</sub> Control Area with one or more affected point sources that collectively emit or have the potential to emit 50 tons or more per year of NO<sub>x</sub>, unless exempted in Subsection C of this Section.

*Affected Point Source*—any point source located at an affected facility and subject to an emission factor listed in Paragraph D.1 of this Section or used as part of an

alternative plan in accordance with Subsection E of this Section, unless exempted in Subsection C of this Section.

*Ammonia Reformer*—a type of process heater/furnace located in an ammonia production plant that is designed to heat a mixture of natural gas and steam to produce hydrogen and carbon oxides.

*Averaging Capacity*—the average actual heat input rate in MMBtu/hour at which an affected point source operated during the ozone season of the two calendar years of 2000 and 2001. 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 shutdown after 1997, the averaging capacity is the average actual heat input during the last two ozone seasons of operation before the curtailment or shutdown.

*Biomass*—defined as bagasse, rice-husks, wood, or other combustible, vegetation-derived material that is suitable for use as fuel.

*Boiler*—any combustion equipment fired with any solid, liquid, and/or gaseous fuel that is primarily used to produce steam, or heat water, or any other heat transfer medium for power generation or for heat to an industrial, institutional, or commercial operation. Equipment that is operated primarily for waste treatment and that incidentally produces steam shall not be regulated under this Chapter as a boiler.

*Cap*—a system for demonstrating compliance whereby an affected facility, a subset of affected sources at an affected facility, or a group of affected facilities under common control are operated to stay below a mass emission rate expressed as mass per unit of time. The allowable mass emission rate is calculated by adding the allowable emissions for each affected point source. The allowable emission is the product of the source's averaging capacity and the applicable factor in Paragraph D.1 of this Section.

*Chemical Processing Gas Turbine*—a gas turbine that vents its exhaust gases into the operating stream of a chemical process.

*Coal*—all solid fuels classified as anthracite, bituminous, subbituminous, or lignite by the American Society for Testing and Materials, Designation D388-77. For the purposes of this Chapter, coal shall also include petroleum coke, solid carbon residues from the processing of petroleum products and coal-derived synthetic fuels, including but not limited to, solvent refined coal, coal-oil mixtures, and coal-water mixtures.

*Combined Cycle*—a combustion equipment configuration that generates electrical 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.

*Continuous Emissions Monitoring System (CEMS)*—the total equipment used to sample and condition, if applicable, to analyze, and to provide a permanent record of emissions or process parameters.

*Daily Average*—an average of the hourly data for one calendar day starting at 12-midnight and continuing until the following 12-midnight.

*Department*—the Louisiana Department of Environmental Quality.

*Elapsed Run-Time Meter*—an instrument designed to measure and record the time that an affected point source has run during a designated period.

*Electric Power Generating System*—all boilers, stationary internal combustion engines, stationary gas turbines, and other combustion equipment within an affected facility that are used to generate electric power and that are owned or operated by a municipality, an electric cooperative, an independent power producer, a public utility, or a Louisiana Public Service Commission regulated utility company, or any of its successors.

*Emergency Standby Gas Turbine or Engine*—a gas turbine or engine operated as an electrical or a mechanical power source for an affected facility when the primary source has been disrupted or discontinued during an emergency due to circumstances beyond the control of the owner or operator of the affected facility and that is operated only during such an emergency or when normal testing procedures, as recommended by the manufacturer, are being performed. The definition includes a stationary gas turbine or a stationary internal combustion engine that is used at a nuclear power plant as an emergency generator that is subject to Nuclear Regulatory Commission (NRC) regulations and a stationary internal combustion engine that is used for the emergency pumping of water for either fire protection or flood relief. This term does not include an electric generating unit in peaking service.

*Facility*—a contiguous area under common control that contains various types of equipment that emit or have the potential to emit NO<sub>x</sub>.

*Facility-Wide Averaging Plan*—an alternative emission plan whereby an affected facility (or affected facilities with a common owner or operator) with multiple affected point sources of NO<sub>x</sub> emissions achieves the required reduction by a different mix of controls from that mandated by Subsection D of this Section. Some affected point sources may be over-controlled (more restrictive than the regulation) or shutdown in order to offset other affected point sources that are under-controlled (less restrictive than the regulation) or not controlled, provided the required overall NO<sub>x</sub> reduction is met.

*Facility-Wide Emission Factor*—the total average allowable NO<sub>x</sub> emission factor in pound NO<sub>x</sub>/MMBtu for affected point sources when firing at their averaging capacities.

*F Factor*—the ratio of the gas volume of the products of combustion to the heat content of the fuel, typically expressed in dry standard cubic feet (dscf) per MMBtu.

*Flare*—a type of equipment specifically designed for combusting gaseous vents at an above-ground location.

*Fluid Catalytic Cracking Unit Regenerator*—a unit in a refinery where catalyst is recovered (regenerated) by burning off coke and other deposits with hot air. The term includes the associated equipment for controlling air pollutant emissions and for heat recovery.

*Gas*—any gaseous substance that can be used as a fuel to create heat and/or mechanical energy including natural gas, synthetically produced gas from coal or oil, gaseous substances from the decomposition of organic matter, and gas streams that are by-products of a manufacturing process.



*Greater Baton Rouge NO<sub>x</sub> Control Area*—an area around Baton Rouge where NO<sub>x</sub> controls are being implemented under this Chapter. The area consists of the entire parishes of Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, and West Feliciana.

*Heat Input*—the heat released due to fuel combustion in an affected point source, using the higher heating value of the fuel, excluding the sensible heat of the incoming combustion air.

*Higher Heating Value*—a measurement of the heat evolved during the complete combustion of a substance, including the latent heat of condensation of any water that is produced.

*Horsepower Rating*—the engine manufacturer's maximum continuous load rating at the lesser of the engine or driven equipment's maximum published continuous speed.

*Incinerator*—any combustion equipment, with or without heat recovery, that is designed and operated primarily for the treatment of gaseous and/or liquid waste. If waste treatment is an incidental part of the operation, the unit shall not be classified as an incinerator. An example of incidental use is when a waste stream is injected into a boiler, process heater/furnace, or other piece of process combustion equipment and the waste streams contribute less than 50 percent of the total heat input. A device classified as a boiler or industrial furnace in accordance with LAC 33:V.Chapter 30 is not an incinerator.

*International Standards Organization (ISO) Conditions*—standard conditions of 59<sup>o</sup>F, 1.0 atmosphere, and 60 percent relative humidity.

*Kilns and Ovens*—combustion equipment used for drying, baking, cooking, and calcining. Kilns can also be used for the treatment of solid wastes.

*Lean-Burn Engine*—a spark-ignited or compression-ignited, Otto cycle, diesel cycle, or two-stroke engine that is not capable of being operated with an exhaust stream oxygen concentration equal to or less than 1.0 percent, by volume on a dry basis, as originally designed by the manufacturer. The exhaust gas oxygen concentration shall be determined from the uncontrolled exhaust stream.

*Liquid Fuel*—any substance in a liquid state that can be used as a fuel to create heat and/or mechanical energy including:

- a. crude oil, petroleum oil, fuel oil, residual oil, distillate, or other liquid fuel derived from crude oil or petroleum;
- b. liquid by-products of a manufacturing process or a petroleum refinery; and
- c. any other liquid fuel.

*Low Ozone Season Capacity Factor Boiler or Process Heater/Furnace*—a boiler or process heater/furnace 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<sup>11</sup> Btu.

*Malfunction*—any sudden and unavoidable failure, as defined in LAC 33:III.111.

*Maximum Rated Capacity*—the maximum annual design capacity, as determined by the equipment manufacturer or as proven by actual maximum annual performance in the field, unless the affected point source is

limited by permit condition to a lesser annual capacity, in which case the limiting condition shall be used as the maximum rated capacity. Where the capacity of a point source is limited by an operating cap applicable to a group of point sources (e.g., several units capped to a combined total firing rate), the total firing rate cap shall be divided by the number of point sources in the cap to arrive at an equivalent maximum rated capacity. This equivalent maximum rated capacity shall be used to determine the applicability of the emission factors and monitoring provisions of this Chapter.

*Megawatt (MW) Rating*—the continuous power rating or mechanical equivalent by a stationary gas turbine manufacturer at ISO conditions, without consideration to the increase in turbine shaft output and/or decrease in turbine fuel consumption by the addition of energy recovered from exhaust heat.

*Nitric Acid Production Unit*—a facility that produces nitric acid by any process.

*Nitrogen Oxides (NO<sub>x</sub>)*—the sum of the nitric oxide and nitrogen dioxide in a stream, collectively expressed as nitrogen dioxide.

*Nonattainment Parish*—in Louisiana, the parishes of Ascension, East Baton Rouge, Iberville, Livingston, or West Baton Rouge.

*Number 6 Fuel Oil*—fuel oil of the grade that is classified number 6, according to ASTM Standard Specification for classification of fuel oil by ASTM D396-84.

*Ozone Season*—May 1 to September 30, inclusively.

*Peaking Service*—a stationary gas turbine or stationary internal combustion engine that is operated intermittently to produce energy. To be in peaking service, the annual heat input or horsepower-hours for the affected point source shall be less than the product of 2500 hours and the MW rating of the turbine or the horsepower rating of the engine.

*Permanent Shutdown*—a shutdown lasting for two years or more or resulting in the removal of the source from the department emissions inventory.

*Predictive Emissions Monitoring System (PEMS)*—a system that uses process and other parameters as inputs to a computer program or other data reduction system to produce values in terms of the applicable emission limitation or standard.

*Process Heater/Furnace*—any combustion equipment fired with solid, liquid, and/or gaseous fuel that is used to transfer heat to a process fluid, superheated steam, or water for the purpose of heating the process fluid or causing a chemical reaction. The term process heater/furnace does not apply to any unfired waste heat recovery boiler that is used to recover sensible heat from the exhaust of any combustion equipment, or to boilers as defined in this Subsection.

*Pulp Liquor Recovery Furnace*—either a straight Kraft recovery furnace or a cross recovery furnace as defined in 40 CFR 60 subpart BB.

*Rich-Burn Engine*—all stationary reciprocating engines that do not fit the definition of lean-burn.

*Sensible Heat*—the heat energy stored in a substance as a result of an increase in its temperature.

*Stationary Gas Turbine*—any turbine system that is gas and/or liquid fuel fired and that is either attached to a foundation at an affected facility or is portable equipment

operated at a specific affected facility for more than 60 days in any ozone season.

**Stationary Internal Combustion Engine**—a reciprocating engine that is either gas and/or liquid fuel fired and that is either attached to a foundation or is portable equipment operated at a specific affected facility for more than six months at a time. This term does not include locomotive engines or self-propelled construction engines.

**Supplemental Firing Unit**—a unit with burners that is installed in the exhaust duct of a stationary gas turbine or internal combustion engine for the purpose of supplying supplemental heat to a downstream heat recovery unit.

**Thirty-Day (30-Day) Rolling Average**—an average, calculated for each day that fuel is combusted, of hourly emissions data for the preceding 30 days that fuel is combusted in an affected point source.

**Totalizing Fuel Meter**—a meter or metering system that provides a cumulative measure of fuel consumption.

**Trading Allowances**—the tons of NO<sub>x</sub> emissions that result from over-controlling, permanently reducing the operating rate of, or permanently shutting down, an affected point source located within the Greater Baton Rouge NO<sub>x</sub> Control Area. The allowances are determined in accordance with LAC 33:III.Chapter 6 and from the emission factors required by Subsection D of this Section for the affected point source and the enforceable emission factor assigned by the owner or operator in accordance with Subsection E of this Section. Trading allowances will be granted only for reductions that are real, quantifiable, permanent, and federally enforceable. NO<sub>x</sub> reductions that are used in a facility-wide averaging plan cannot be also used in a trading plan.

**Wood**—wood, wood residue, bark, or any derivative fuel or residue thereof in any form, including but not limited to, sawdust, sander dust, wood chips, scraps, slabs, millings, shavings, and processed pellets made from wood or other forest residues.

C. Exemptions. The following categories of equipment or processes located at an affected facility within the Greater Baton Rouge NO<sub>x</sub> Control Area are exempted from the provisions of this Chapter:

1. boilers and process heater/furnaces with a maximum rated capacity of less than 80 million British thermal units (MMBtu) per hour;
2. stationary gas turbines with a megawatt rating based on heat input of less than 10 megawatts (MW);
3. stationary internal combustion engines as follows:
  - a. rich-burn engines with a rating of less than 300 horsepower (Hp); and
  - b. lean-burn engines with a rating of less than 1500 Hp;
4. low ozone season capacity factor boilers and process heater/furnaces, in accordance with Paragraph H.11 of this Section;
5. stationary gas turbines and stationary internal combustion engines, that are:
  - a. used in research and testing;
  - b. used for performance verification and testing;
  - c. used solely to power other engines or turbines during start-ups;
  - d. operated exclusively for fire fighting or training and/or flood control;

e. used in response to and during the existence of any officially declared disaster or state of emergency;

f. used directly and exclusively for agricultural operations necessary for the growing of crops or the raising of fowl or animals; or

g. used as chemical processing gas turbines.

6. any point source, in accordance with Paragraph H.12 of this Section, that operates less than 400 hours during the ozone season;

7. flares, incinerators, kilns and ovens as defined in Subsection B of this Section;

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;

9. any point source used solely to start up a process;

10. any point source firing biomass fuel that supplies greater than 50 percent of the heat input on a monthly basis;

11. any point source at a sugar mill;

12. fluid catalytic cracking unit regenerators;

13. pulp liquor recovery furnaces;

14. diesel-fired stationary internal combustion engines;

15. any affected point source that is required to meet a more stringent state or federal NO<sub>x</sub> emission limitation (In this case, the monitoring, reporting, and recordkeeping requirements shall be in accordance with the more stringent regulation and not this Chapter.);

16. wood-fired boilers that are subject to 40 CFR 60, subpart Db;

17. nitric acid production units that are subject to 40 CFR 60, subpart G or LAC 33:III.2307;

18. any affected point source firing Number 6 Fuel Oil during a period of emergency and approved by the administrative authority;

19. boilers and industrial furnaces treating hazardous waste and regulated under LAC 33:V.Chapter 30 or 40 CFR part 264, 265, or 266, including halogen acid furnaces and sulfuric acid regeneration furnaces; and

20. high efficiency boilers or other combustion devices regulated under the Toxic Substance Control Act PCB rules under 40 CFR part 761.

D. Emission Factors

1. The following table lists NO<sub>x</sub> emission factors that shall apply to affected point sources located at affected facilities in the Greater Baton Rouge NO<sub>x</sub> Control Area:

NO <sub>x</sub> Emission Factors		
Category	Maximum Rated Capacity	NO <sub>x</sub> Emission Factor <sup>a</sup>
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	>= 10 MW	0.16 pound/MMBtu <sup>b</sup>
Stationary Internal Combustion Engines:		
Lean-burn	>= 1500 Hp	4g/Hp-hour
Rich-burn	>= 300 Hp	2g/Hp-hour

<sup>a</sup> all factors are based on the higher heating value of the fuel.

<sup>b</sup> equivalent to 42 ppmv (15 percent O<sub>2</sub>, dry basis) with an F factor of 8710 dscf/MMBtu.

2. Any electric power generating system boiler that operates with a combination of fuels shall comply with an adjusted emission factor calculated as follows:

a. if a combination of fuels is used normally, the emission factor from Paragraph D.1 of this Section shall be adjusted by the weighted average heat input of the fuels based on the ozone season average usage in 2000 and 2001, or another period if approved by the department;

b. if the boiler is normally fired with a primary fuel and a secondary fuel is available for back-up, the unit shall comply with the emission factor for the primary fuel while firing the primary fuel and with the emission factor for the secondary fuel while firing the secondary fuel. In addition, the usage of the secondary fuel shall be limited to the ozone season average usage of the secondary fuel in 2000 and 2001, or another period if approved by the department; and

c. in either case, if the secondary fuel is less than 10 percent of

the weighted average, the owner or operator may choose to comply with the unadjusted limit for the primary fuel.

3. For affected point sources in an electric power generating system that fire gaseous or liquid fuels, the emission factors from Subsection D of this Section shall apply as the mass of NO<sub>x</sub> emitted per unit of heat input (pound NO<sub>x</sub> per MMBtu), on a daily average basis. Alternatively, a facility may choose to comply with a ton per day or a pound per hour cap provided that monitoring is installed to demonstrate compliance with the cap. The cap for a facility or for multiple facilities under common control is calculated by adding the products of the factor from Paragraph D.1 of this Section and the averaging capacity for each affected point source as follows:

Where:

Equation D-1

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

HI<sub>i</sub> = the averaging capacity of each point source (MMBtu/hour)  
i = each point source included in the cap  
N = the total number of point sources included in the cap  
R<sub>li</sub> = the limit for each point source from Subsection D of this Section (pound NO<sub>x</sub>/MMBtu)

4. For all other affected point sources, including those in a coal-fired electric power generating system, the emission factors from Subsection D of this Section shall apply as the mass of NO<sub>x</sub> emitted per unit of heat input (pound NO<sub>x</sub> per MMBtu), on a 30-day rolling average basis. Alternatively, a facility may choose to comply with a cap as detailed in Paragraph D.3 of this Section provided a system, approved by the department, is installed to demonstrate compliance.

5. If one affected point source discharges in part or in whole to another affected point source, the portion discharging into the second point source shall be treated as emanating from the second point source and shall be controlled to the same limit as that specified for the second point source, while the portion discharging directly to the atmosphere from the first point source shall be controlled to the limit of the first point source. This term shall not include a combined cycle unit that discharges into a supplemental firing unit or other type of combustion equipment. For this

type of point source, the emissions shall be controlled as follows:

a. for the turbines and/or engines, at the appropriate limits for the turbines and/or engines alone; and

b. for the supplemental firing unit or other type of combustion equipment, at the appropriate limit for the supplemental firing or combustion equipment with the measured emission values adjusted for the emissions coming from the turbines and/or engines.

6. Where a common stack is used to collect vents from affected point sources or affected point sources and exempt point sources and monitoring and/or testing of individual units is not feasible, the department, upon application from the owner or operator, shall specify alternative methods to demonstrate compliance with the emission factors of this Subsection.

7. Any affected point source firing gaseous fuel that contains hydrogen and/or carbon monoxide may apply a multiplier, as calculated below, to the appropriate emission factor given in Paragraph D.1 of this Section. The total hydrogen and/or carbon monoxide volume in the gaseous fuel stream is divided by the total gaseous fuel flow volume to determine the volume percent of hydrogen and/or carbon monoxide in the fuel supply. In order to apply this multiplier, the owner or operator of the affected point source shall sample and analyze the fuel gas composition for hydrogen and/or carbon monoxide in accordance with Paragraph G.5 of this Section.

8. The owner or operator of a stationary gas turbine using a fuel that has an F factor different than 8710 dscf/MMBtu may adjust the allowable emission factor shown in Paragraph D.1 of this Section. The adjustment is made by dividing the actual F factor (dscf/MMBtu) of the fuel by 8710 and multiplying the result by 0.16 to get the adjusted allowable emission factor. The use of this option shall be detailed in the permit application or in the optional compliance plan described in Paragraph F.7 of this Section.

9. On a day that is designated as an Ozone Action Day by the department, a facility shall not fire an affected point source with Number 6 Fuel Oil or perform testing of emergency and training combustion units without prior approval of the administrative authority.

#### E. Alternative Plans

1. Facility-Wide Averaging Plan. A facility-wide averaging plan is established in this Chapter for single affected facilities and multiple affected facilities that are owned and operated by the same entity. Within the Greater Baton Rouge NO<sub>x</sub> Control Area, an owner or operator of one or more affected facilities may use the facility-wide averaging plan as an alternative means of compliance with the emission factors from Subsection D of this Section. A request for approval to use a facility-wide averaging plan, that includes the details of the plan, shall be submitted to the department either separately or with the permit application or in the optional compliance plan described in Paragraph F.7 of this Section. A facility-wide averaging plan submitted under this provision shall be approved if the department determines that it will provide emission reductions equivalent to or more than that required by the emission factors in Subsection D of this Section and the plan establishes satisfactory means for determining ongoing compliance, including appropriate monitoring and

recordkeeping requirements. Approval of the alternative plans by the administrative authority does not necessarily indicate automatic approval by the administrator.

a. An owner or operator who elects to use a facility-wide averaging plan for compliance shall establish an emission factor for each applicable affected point source such that if each affected point source was operated at its averaging capacity, the cumulative emission factor in pounds NO<sub>x</sub>/MMBtu from all point sources in the averaging group would not exceed the facility-wide emission factor, as shown in Equation E-3. The equations below shall be used to calculate the cumulative emission rate and the facility-wide emission factor.

Where:

Equation D-2

$$f_i = HI_i / \sum_{i=1}^N HI_i$$

- f<sub>i</sub> = fraction of total system averaging capacity for point source i
- HI<sub>i</sub> = the averaging capacity of each point source (MMBtu/hour)
- i = each point source in the averaging group
- N = the total number of point sources in the averaging group
- R<sub>ai</sub> = the limit assigned by the owner to each point source in the averaging plan (pound NO<sub>x</sub>/MMBtu)
- R<sub>i</sub> = the limit for each point source from Subsection D of this Section (pound NO<sub>x</sub>/MMBtu)
- FL = facility-wide emission factor (pound NO<sub>x</sub>/MMBtu) of all point sources included in the averaging plan

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

- i. operating such that each affected point source does not exceed its assigned individual limit in pound NO<sub>x</sub>/MMBtu on a daily average basis; or
- ii. complying with a cap as described in Paragraph D.3 of this Section, provided that a monitoring system is installed to demonstrate compliance with the cap.

c. Owners or operators of all other affected point sources, including those in a coal-fired electric power generating system, that choose to use an averaging plan shall demonstrate compliance by either of the following methods:

- i. operating such that each affected point source does not exceed its assigned individual limit in pound NO<sub>x</sub>/MMBtu on a 30-day rolling average basis; or
- ii. complying with a cap as described in Paragraph D.4 of this Section, provided a system, approved by the department, is installed to demonstrate compliance with the cap.

d. Notwithstanding the compliance methods described in Clause E.1.b.i and c.i of this Section, the owner or operator that chooses to use an averaging plan shall include in the submitted plan provisions that demonstrate to the department that any under-controlled unit will not be operated at more than ten percent above its calculated averaging capacity fraction (f<sub>i</sub> in Equation E-2). If this limit is not adequately demonstrated, the department shall require that the facility demonstrate compliance by operating such that the facility-wide emission factor, FL, is not exceeded, instead of by the methods described in Clause E.1.b.i or c.i of this Section.

e. The owner or operator of affected point sources complying with the requirements of this Subsection can include in the plan either all of the affected point sources at the facility or select only certain sources to be included.

f. NO<sub>x</sub> reductions accomplished after 1997 through curtailments in capacity of a point source with a permit revision or by permanently shutting down the point source may be included in the averaging plan. In order to include a unit with curtailed capacity in the averaging plan, the old averaging capacity, determined from the average of the two ozone seasons prior to the capacity curtailment, shall be used to calculate the unit's contribution to the term FL. The new averaging capacity, determined from the enforceable permit revision, shall be multiplied by the owner assigned limit to calculate the contribution of the curtailed unit to the cumulative emission factor for the averaging group.

g. NO<sub>x</sub> reductions from exempted point sources, as defined in Subsection C of this Section, may be used in a facility-wide averaging plan. If a unit exempted in Subsection C of this Section is included in an averaging plan, the term R<sub>i</sub> in Equation E1 shall be established, in accordance with Subsection G of this Section, from a stack test that was performed before the NO<sub>x</sub> reduction project was implemented and the term R<sub>ai</sub> shall be established from the owner-assigned emission factor in accordance with Subparagraph E.1.a of this Section.

h. Solely for the purpose of calculating the facility-wide emission factor, the allowable emission factor (pound NO<sub>x</sub>/MMBtu) for each affected stationary internal combustion engine is the applicable NO<sub>x</sub> emission factor from Subsection D of this Section (g/Hp-hour) divided by the product of the engine manufacturer's rated heat rate (expressed in Btu/Hp-hour) at the engine's Hp rating and 454 x10<sup>6</sup>.

i. The owner or operator of affected point sources complying with the requirements of this Subsection in accordance with an emissions averaging plan shall carry out recordkeeping that includes, but is not limited to, a record of the data on which the determination of each point source's hourly, daily, or 30-day, as appropriate, compliance with the facility-wide averaging plan is based.

2. Trading Plan. Trading is established in this Chapter as an alternate means of compliance with the emission factors from Subsection D of this Section. Within the Greater Baton Rouge NO<sub>x</sub> Control Area, trading allowances, as defined in Subsection B of this Section, may be traded between affected facilities owned by different companies in accordance with the provisions of LAC 33:III.Chapter 6. The approval to use trading shall be requested in the permit application or in the optional compliance plan described in Paragraph F.7 of this Section. A trading plan submitted under this provision shall be approved if the department determines that it will provide NO<sub>x</sub> emission reductions equivalent to or more than that required by the emission factors of Subsection D of this Section and the plan establishes satisfactory means for determining ongoing compliance, including appropriate monitoring and recordkeeping requirements. Approval of trading plans by the administrative authority does not necessarily indicate automatic approval of the administrator.

## F. Permits

### 1. Authorization to Install and Operate NO<sub>x</sub> Control Equipment

a. An owner or operator may obtain approval to install and operate NO<sub>x</sub> 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<sub>2</sub>), particulate matter (PM<sub>10</sub>), and/or volatile organic compound (VOC) emission increases associated with the NO<sub>x</sub> 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 revision reflecting the emission reduction shall be obtained no later than 180 days after commencement of operation and in accordance with the procedures of LAC 33:III.Chapter 5.

b. In accordance with LAC 33:III.511.C, installation of NO<sub>x</sub> control equipment that results in ammonia emissions above the MER in LAC 33:III.Chapter 51 shall not commence until a permit or permit modification has been approved by the administrative authority. In accordance with LAC 33:III.5107.D.1, the administrative authority shall provide at least 30 days for public comment before issuing any such permit.

2. Alternatively to Subparagraph F.1.a of this Section, an owner or operator of an affected facility that is operating with a Louisiana air permit may submit a completed permit modification application for the changes proposed to comply with this Chapter.

3. Any owner or operator with an affected facility that has retained grandfathered status, as described in LAC 33:III.501.B.6, shall submit an application in accordance with LAC 33:III.501.C.1 for the changes proposed to comply with this Chapter.

4. Duty to Supplement. In accordance with LAC 33:III.517.C, if an owner or operator has a permit application on file with the department, but the department has not released the proposed permit, the applicant shall supplement the application as necessary to address this Chapter.

5. Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Considerations. A significant net emissions increase in CO, SO<sub>2</sub>, PM<sub>10</sub>, 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<sub>x</sub> control equipment or implementation of a NO<sub>x</sub> 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. the project shall not:
  - i. cause or contribute to a violation of the national ambient air quality standard (NAAQS); or
  - ii. adversely affect visibility or other air quality related value (AQRV) in a class I area;
- b. any increase in CO, SO<sub>2</sub>, PM<sub>10</sub>, and/or VOC emissions shall be:
  - i. quantified in the submittal required by Paragraphs F.1-4 of this Section; and

- ii. tested in accordance with Subsection G of this Section, as applicable;

- c. notwithstanding the requirements of Table 1 of LAC 33:III.504, any increase of VOC emissions at an affected facility located in a nonattainment parish 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

- d. a 30-day public comment period shall be provided in accordance with LAC 33:III.519.C prior to issuance of a permit or permit modification.

6. Increases above the MER in toxic air pollutant (TAP) emissions shall be subject to the applicable requirements of LAC 33:III.Chapter 51.

7. When pre-permit application approval of plans is desired by an owner or operator, a compliance plan may be submitted in accordance with this Subsection. The administrative authority shall approve the plan if it contains all of the required information to determine that the affected sources will be in compliance with this Chapter and is accurate. The compliance plan may address individual point sources, groups of point sources, or all point sources at the facility, as determined by the owner. The following information shall be submitted as appropriate:

- a. the facility designation, as indicated by the identification number, submitted to the Office of Environmental Services, Permits Division;

- b. a list of all units in the compliance plan, the emission point number as designated on the emission inventory questionnaire, the averaging capacity, and the maximum rated capacity;

- c. identification of all combustion units with a claimed exemption in accordance with Subsection C of this Section, and the rule basis for the claimed exemption;

- d. a list of any units that have been, or will be, curtailed or permanently shutdown;

- e. for each unit, the actual emission factor that will be used to achieve compliance;

- f. the control technology to be applied for each unit subject to control, and an anticipated construction schedule for each control device including the dates for completion of engineering, submission of permit applications, start and finish of construction, and initial start-up; and

- g. the calculations to demonstrate that each unit will achieve the required NO<sub>x</sub> emission rate.

### G. Initial Demonstration of Compliance

1. Emissions testing to demonstrate initial compliance with the NO<sub>x</sub> emission factors of Subsection D of this Section, or with emission limits that are part of an alternative plan under Subsection E of this Section, for affected point sources operating with a CEMS or PEMS that has been certified in accordance with Subsection H of this Section is not required. The certification of the CEMS or PEMS shall be considered demonstration of initial compliance. Testing for initial compliance is not required for an existing CEMS or PEMS that meets the requirements of Subsection H of this Section.

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<sub>x</sub> emissions are in compliance with the

appropriate limits of this Chapter. As applicable, CO, SO<sub>2</sub>, PM<sub>10</sub>, oxygen (O<sub>2</sub>), NH<sub>3</sub>, and VOC shall also be measured. Performance testing of these point sources shall be performed in accordance with the schedule specified in Subsection J of this Section.

3. The tests required by Paragraph G.2 of this Section shall be performed by the test methods referenced in Paragraph G.5 of this Section, except as approved by the administrative authority in accordance with Paragraph G.7 of this Section. Test results shall be reported in the units of the applicable emission factors and for the corresponding averaging periods.

4. Emission testing conducted in the three years prior to the initial demonstration of compliance date may be used to demonstrate compliance with the limits of Subsection D or E of this Section, if the owner or operator demonstrates to the department that the prior testing meets the requirements of this Subsection. The request to waive emissions testing according to this Paragraph shall be included in the permit application. The department reserves the right to request performance testing or CEMS performance evaluation upon reasonable notice.

5. Compliance with the emission specifications of Subsection D or E of this Section for affected point sources operating without CEMS or PEMS shall be demonstrated while operating at the maximum rated capacity, or as near thereto as practicable. The stack tests shall be performed according to emissions testing guidelines located on the department website in the technology section. Three minimum one-hour tests shall be performed and the following methods from 40 CFR part 60, appendix A shall be used:

- a. Methods 1, 2, 3, and 4 or 19, with prior approval, for exhaust gas flow;
- b. Method 3A or 20 for O<sub>2</sub>;
- c. Method 5 for PM;
- d. Method 6C for SO<sub>2</sub>;
- e. Method 7E or 20 for NO<sub>x</sub>;
- f. Method 10 or 10A for CO;
- g. Method 18 or 25A for VOC;
- h. modified Method 5, or a department-approved equivalent, for NH<sub>3</sub>; and/or
- i. American Society of Testing and Materials (ASTM) Method D1945-96 or ASTM Method D2650-99 for fuel composition; ASTM Method D1826-94 or ASTM Method D3588-98 for calorific value.

6. All alternative or equivalent test methods, waivers, monitoring methods, testing and monitoring procedures, customized or correction factors, and alternatives to any design, equipment, work practices, or operational standards must be approved by both the administrative authority and the administrator, if applicable, before they become effective.

7. An owner or operator may request approval from the department for minor modifications to the test methods listed in Paragraph G.5 of this Section, including alternative sampling locations and testing a subset of similar affected sources, prior to actual stack testing.

8. The information required in this Subsection shall be provided in accordance with the effective dates in Subsection J of this Section.

H. Continuous Demonstration of Compliance. After the initial demonstration of compliance required by Subsection G of this Section, continuous compliance with the emission factors of Subsection D or E of this Section, as applicable, shall be demonstrated by the methods described in this Subsection. For any alternative method, the department's approval does not necessarily constitute compliance with all federal requirements nor eliminate the need for approval by the administrator.

1. The owner or operator of boilers that are subject to this Chapter and that have a maximum rated capacity that is equal to or greater than 80 MMBtu/hour shall demonstrate continuous compliance as follows:

a. for boilers with a maximum rated capacity less than 250 MMBtu/hour:

i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage;

ii. install, calibrate, maintain, and operate an oxygen monitor to measure oxygen concentration; and

iii. in order to continuously demonstrate compliance with the NO<sub>x</sub> limits of Subsection D or E of this Section, implement procedures to operate the boiler within the fuel and oxygen limits established during the initial compliance run in accordance with Subsection G of this Section; and

b. for boilers with a maximum rated capacity equal to or greater than 250 MMBtu/hour:

i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure gas and/or liquid fuel usage. For coal-fired boilers, belt scales or an equivalent device shall be provided;

ii. install, calibrate, maintain, and operate a diluent (either oxygen or carbon dioxide) monitor. The monitor shall meet all of the requirements of performance specification 3 of 40 CFR 60, appendix B;

iii. install, calibrate, maintain, and operate a NO<sub>x</sub> CEMS to demonstrate continuous compliance with the NO<sub>x</sub> 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; and

iv. install, calibrate, maintain, and operate a CO monitor. The monitor shall meet all of the requirements of performance specification 4 of 40 CFR 60, appendix B; or

v. alternatively to Clause H.1.b.ii-iv of this Section, for demonstration of continuous compliance, the owner or operator may install, calibrate, certify, maintain, and operate a PEMS to predict NO<sub>x</sub>, diluent (O<sub>2</sub> or CO<sub>2</sub>), and CO emissions for each affected point source. As an alternative to using the PEMS to monitor diluent (O<sub>2</sub> or CO<sub>2</sub>), a monitor for diluent according to Clause H.1.b.ii of this Section or similar alternative method approved by the department may be used. The PEMS shall be certified while operating on primary boiler fuel and, separately, on any alternative fuel. The certification shall be in accordance with EPA documents, "Example Specifications and Test Procedures for Predictive Emission Monitoring Systems" and "Predictive Emission Monitoring System to Determine NO<sub>x</sub> and CO Emissions from an Industrial Furnace" that are located on the EPA website in the emission monitoring section, both with posting dates of July 31, 1997; or

vi. alternatively to Clause H.1.b.ii-iv of this Section, the owner or operator may request approval from the administrator for an alternative monitoring plan that uses a fuel-oxygen operating window to demonstrate continuous compliance of NO<sub>x</sub> and CO. The corners of the window shall be established during the initial compliance test required by Subsection G of this Section or similar testing at another time. The details for use of an alternative monitoring plan shall be submitted in the permit application or in the optional compliance plan described in Paragraph F.7 of this Section. The plan shall become part of the facility permit and shall be federally enforceable.

2. The owner or operator of process heater/furnaces that are subject to this Chapter and that have a maximum rated capacity that is equal to or greater than 80 MMBtu/hour shall demonstrate continuous compliance as follows:

a. for process heater/furnaces with a maximum rated capacity less than 250 MMBtu/hour:

i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage;

ii. install, calibrate, maintain, and operate an oxygen monitor to measure oxygen concentration; and

iii. in order to continuously demonstrate compliance with the NO<sub>x</sub> limits of Subsection D or E of this Section, implement procedures to operate the process heater/furnace within the fuel and oxygen limits established during the initial compliance run in accordance with Subsection G of this Section; and

b. for process heater/furnaces with a maximum rated capacity equal to or greater than 250 MMBtu/hour:

i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage;

ii. install, certify, maintain, and operate an oxygen or carbon dioxide diluent monitor in accordance with the requirements of Clause H.1.b.ii of this Section;

iii. install, certify, maintain, and operate a NO<sub>x</sub> CEMS in accordance with the requirements of Clause H.1.b.iii of this Section; and

iv. install, certify, maintain, and operate a CO monitor in accordance with the requirements of Clause H.1.b.iv of this Section; or

v. alternatively to Clause H.2.b.ii-iv of this Section, the owner or operator may install, calibrate, certify, maintain, and operate a PEMS in accordance with the requirements of Clause H.1.b.v of this Section; or

vi. alternatively to Clause H.2.b.ii-iv of this Section, the owner or operator may request approval from the department for an alternative monitoring plan that uses a fuel-oxygen operating window, or other system, to demonstrate continuous compliance of NO<sub>x</sub> and CO. The corners of the window shall be established during the initial compliance test required by Subsection G of this Section or similar testing at another time. The details for use of an alternative monitoring plan shall be submitted in the permit application or in the optional compliance plan described in Paragraph F.7 of this Section. The plan shall become part of the facility permit and shall be federally enforceable.

3. The owner or operator of stationary gas turbines that are subject to this Chapter and that have a megawatt rating based on heat input that is equal to or greater than 10 MW shall demonstrate continuous compliance as follows:

a. for stationary gas turbines with a megawatt rating based on heat input less than 30 MW:

i. if the stationary gas turbine uses steam or water injection to comply with the NO<sub>x</sub> emission factors, install, calibrate, maintain, and operate a continuous system to monitor and record the average hourly fuel and steam or water consumption and the water or steam to fuel ratio. To demonstrate continuous compliance with the appropriate emission factor, the stationary gas turbine shall be operated at the required steam-to-fuel or water-to-fuel ratio as determined during the initial compliance test; and

ii. for other stationary gas turbines, install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage. Compliance with the emission factors of Subsection D or E of this Section shall be demonstrated by operating the turbine within the fuel limits established during the initial compliance run in accordance with Subsection G of this Section and by annual testing for NO<sub>x</sub> and CO with an approved portable analyzer; or

iii. alternatively to Clause H.3.a.i or ii of this Section, an owner or operator may choose to comply with the requirements of Clause H.3.b.i-iv or v of this Section to demonstrate continuous compliance with the limits of Subsection D or E of this Section; and

b. for stationary gas turbines with a megawatt rating based on heat input of 30 MW or greater:

i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage;

ii. install, certify, maintain, and operate an oxygen or carbon dioxide diluent monitor in accordance with the requirements of Clause H.1.b.ii of this Section;

iii. install, certify, maintain, and operate a NO<sub>x</sub> CEMS in accordance with the requirements of Clause H.1.b.iii of this Section; and

iv. install, certify, maintain, and operate a CO monitor in accordance with the requirements of Clause H.1.b.iv of this Section; or

v. alternatively to Clause H.3.b.ii-iv of this Section, the owner or operator may install, calibrate, certify, maintain, and operate a PEMS in accordance with the requirements of Clause H.1.b.v of this Section; or

vi. alternatively to Clause H.3.b.ii-iv of this Section, the owner or operator may request approval from the department for an alternative monitoring plan that complies with the provisions of Clause H.3.a.i of this Section, if the turbine uses steam or water injection for compliance, or Clause H.3.a.ii of this Section for other turbines. The alternative plan shall also require annual testing for NO<sub>x</sub> and CO with an approved portable analyzer and triennial stack testing for NO<sub>x</sub> and CO in accordance with the methods specified in Paragraph G.5 of this Section. The details for use of an alternative monitoring plan shall be submitted in the permit application or in the optional compliance plan described in Paragraph F.7 of this Section. The plan shall become part of the facility permit and shall be federally enforceable.

4. The owner or operator of stationary internal combustion engines that are subject to this Chapter and have a horsepower rating of 300 Hp or greater for rich-burn engines or 1500 Hp or greater for lean-burn engines shall demonstrate continuous compliance as follows:

a. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage and demonstrate continuous compliance by operating the engine within the fuel limits established during the initial compliance run and by annual testing for NO<sub>x</sub> and CO with an approved portable analyzer and by triennial stack testing for NO<sub>x</sub> and CO in accordance with the methods specified in Paragraph G.5 of this Section; or

b. alternatively to Subparagraph H.4.a of this Section, an owner or operator may choose to comply with the requirements of Clause H.3.b.i-iv or v of this Section to demonstrate continuous compliance with the limits of Subsection D or E of this Section.

5. A CEMS unit may be used to monitor multiple point sources provided that each source is sampled at least once every 15 minutes and the arrangement is approved by the department.

6. Existing instrumentation for any requirement in this Subsection shall be acceptable upon approval of the department.

7. For any affected point source that uses a chemical reagent for reduction of NO<sub>x</sub>, a NO<sub>x</sub> CEMS, in accordance with Clause H.1.b.iii of this Section, and a CO monitor, in accordance with Clause H.1.b.iv of this Section, shall be provided.

8. For boilers or process heater/furnaces that are covered by this Chapter, that discharge through a common stack, and where the combined heat input is greater than 250 MMBtu, a NO<sub>x</sub> CEMS, in accordance with Clause H.1.b.iii of this Section, and a CO monitor, in accordance with Clause H.1.b.iv of this Section, shall be provided.

9. The owner or operator of any affected point source firing gaseous fuel for which a fuel multiplier from Paragraph D.7 of this Section is used shall sample, analyze, and record the fuel gas composition on a daily basis or on an alternative schedule approved by the administrative authority. If an owner or operator desires to use an alternative sampling schedule, he shall specify a sampling frequency in his permit application and provide an explanation for the alternative schedule. Fuel gas analysis shall be performed according to the methods listed in Subparagraph G.5.g of this Section, or other methods that are approved by the department. A gaseous fuel stream containing 99 percent H<sub>2</sub> and/or CO by volume or greater may use the following procedure to be exempted from the sampling and analysis requirements of this Subsection:

a. a fuel gas analysis shall be performed initially using the test methods in Subparagraph G.5.g of this Section to demonstrate that the gaseous fuel stream is 99 percent H<sub>2</sub> and/or CO by volume or greater; and

b. the owner or operator shall certify that the fuel composition will continuously remain at 99 percent H<sub>2</sub> and/or CO by volume or greater during its use as a fuel to the point source.

10. All affected point sources that rely on periodic stack testing to demonstrate continuous compliance and use a catalyst to control NO<sub>x</sub> emissions shall be tested after each occurrence of catalyst replacement. Portable analyzers shall be acceptable for this check. Documentation shall be maintained on-site, if practical, of the date, the person doing the test, and the test results. Documentation shall be made available for inspection upon request.

11. The owner or operator of any low ozone season capacity factor boiler or process heater/furnace for which an exemption is granted shall install, calibrate, and maintain a totalizing fuel meter, with instrumentation approved by the department, and keep a record of the fuel input for each affected point source during each ozone season. The owner or operator of any boiler or process heater/furnace covered under this exemption shall notify the administrative authority within seven days if the Btu-per-ozone season limit is exceeded. If the Btu-per-ozone season limit is exceeded, the exemption shall be permanently withdrawn. Within 90 days after receipt of notification from the administrative authority of the loss of the exemption, the owner or operator shall submit a permit modification detailing how to meet the applicable emission factor as soon as possible, but no later than 24 months, after exceeding the Btu-per-ozone season limit. Included with this permit modification, the owner or operator shall submit a schedule of increments of progress for the installation of the required control equipment. This schedule shall be subject to the review and approval of the department.

12. The owner or operator of any affected point source that is granted an exemption for operating less than 400 hours during the ozone season shall install, calibrate, and maintain a nonresettable, elapsed run-time meter to record the operating time in order to demonstrate compliance. The owner or operator shall notify the administrative authority within seven days if the hours-per-ozone season limit is exceeded. If the hour-per-ozone season limit is exceeded, the exemption shall be permanently withdrawn. Within 90 days after receipt of notification from the administrative authority of the loss of the exemption, the owner or operator shall submit a permit modification detailing how to meet the applicable emission factor as soon as possible, but no later than 24 months, after exceeding the limit. Included with this permit modification, the owner or operator shall submit a schedule of increments of progress for the installation and operation of the required control equipment. This schedule shall be subject to the review and approval of the department.

#### I. Notification, Recordkeeping, and Reporting Requirements

1. The owner or operator of an affected point source shall notify the department at least 30 days prior to any compliance testing conducted under Subsection G of this Section and any CEMS or PEMS performance evaluation conducted under Subsection H of this Section in order to give the department an opportunity to conduct a pretest meeting and observe the emission testing. All necessary sampling ports and such other safe and proper sampling and testing facilities as required by LAC 33:III.913, or alternatives approved by the department, shall be provided for the testing. The test report shall be submitted to the department within 60 days after completing the testing.

2. The owner or operator of an affected point source required to demonstrate continuous compliance in accordance with Subsection H of this Section shall submit a written report within 90 days of the end of each quarter to the administrative authority for any noncompliance of the applicable emission limitations of Subsection D or E of this Section. The required information may be included in reports provided to the administrative authority to meet other



requirements, so long as the report meets the deadlines and content requirements of this Paragraph. The report shall include the following information:

- a. description of the noncompliance;
- b. cause of the noncompliance;
- c. anticipated time that the noncompliance is expected to continue or, if corrected, the duration of the period of noncompliance; and
- d. steps taken to prevent recurrence of the noncompliance.

3. The owner or operator of an affected point source shall maintain records of all continuous monitoring, performance test results, hours of operation, and fuel usage rates for each affected point source. Such records shall be kept for a period of at least five years and shall be made available upon request by authorized representatives of the department. The emission monitoring (as applicable) and fuel usage records for each affected point source shall be recorded and maintained:

- a. hourly for affected point sources complying with an emission factor on an hourly basis;
- b. daily for affected point sources complying with an emission factor enforced on a daily average basis or on a 30-day rolling average basis; and
- c. monthly for affected point sources exempt from the emission specifications based on ozone season heat input or hours of operation per ozone season.

4. The owner or operator shall maintain the following records:

- a. records for a facility-wide averaging plan in accordance with Subparagraph E.1.i of this Section;
- b. records approved for a trading plan in accordance with Paragraph E.2 of this Section; and
- c. records in accordance with Paragraphs H.7, 8, 9, 10, 11, and 12 of this Section.

5. Ammonia emissions resulting from the operation of a NO<sub>x</sub> control equipment system shall be reported annually in accordance with LAC 33:III.5107.A.

**J. Effective Dates**

1. The owner or operator of an affected facility shall modify and/or install and bring into normal operation NO<sub>x</sub> control equipment and/or NO<sub>x</sub> monitoring systems in accordance with this Chapter as expeditiously as possible, but by no later than May 1, 2005.

2. The owner or operator shall complete all initial compliance testing, specified by Subsection G of this Section, for equipment modified with NO<sub>x</sub> reduction controls or a NO<sub>x</sub> monitoring system to meet the provisions of this Chapter within 60 days of achieving normal production rate or after the end of the shake down period, but in no event later than 180 days after initial start-up. Required testing to demonstrate the performance of existing, unmodified equipment shall be completed in a timely manner, but by no later than November 1, 2005.

**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:

J. Dale Givens  
Secretary

0112#075

## DECLARATION OF EMERGENCY

### Office of the Governor Division of Administration State Land Office

#### Use of Lands and Water Bottoms within Wax Lake Area for 2001-2002 Waterfowl Hunting Season

Use of lands and water bottoms during the 2001-2002 waterfowl hunting season within the Wax Lake area of St. Mary Parish, Louisiana

The Division of Administration, State Land Office, has adopted the following emergency rule in accordance with The Administrative Procedure Act, R.S. 49:950 et seq., which emergency rule will be effective November 14, 2001 and remain in effect for 120 days or until finalized as a rule, whichever comes first.

Emergency adoption is necessary because of a dispute between the State of Louisiana and Miami Corporation over the ownership of water bottoms and accretion areas generally between the North end of Wax Lake and the mouth of Little Wax Bayou. Miami Corporation has previously granted hunting leases to various parties in this area, and the State previously posted signs in this area evidencing the State's claims, leading some members of the public to assume that the area was open to unlimited hunting and other access, including the right to construct permanent hunting blinds in the area. Problems exist with enforcement of trespass laws in that portion of the Wax Lake area claimed by Miami Corporation and the State during duck hunting season. Therefore, both Miami Corporation and the State, as adverse claimants, are united in their efforts to avoid any confrontation among armed hunters in this area, and deem it advisable to create a uniform set of rules for use of the area during the opening hunting season.

#### **Emergency Rule**

Effective November 10, 2001 and thereafter, the State Land Office adopts the following rules to govern use of the area of Wax Lake claimed by the State for hunting during the duration of the 2001-2002 waterfowl hunting season:

1. For purposes of these regulations, "Wax Lake Area" shall include lands and water bottoms within Sections 34, 35, 44, and 45, Township 16 South, Range 10 East, St. Mary Parish, said area generally lying between the North limit of Wax Lake and the mouth of Little Wax Bayou. The lands and water bottoms within the Wax Lake Area are subject to competing claims of the State and private landowners.

2. The use of marsh buggies within the Wax Lake Area is prohibited during the duration of the 2001-2002 waterfowl hunting season. Violations of these provisions shall result in a civil penalty of \$100 per violation, enforceable by duly authorized law enforcement agents, wildlife agents, and peace officers, including the Louisiana State Police, Louisiana Wildlife and Fisheries Agents, Sheriffs and their deputies, Constables, and other such authorized agents and officers.

3. The use of airboats outside the channel of Wax Lake outlet is prohibited during the duration of the 2001-2002 waterfowl hunting season. Violations of these provisions shall result in a civil penalty of \$100 per violation, enforceable by duly authorized law enforcement

agents, wildlife agents, and peace officers, including the Louisiana State Police, Louisiana Wildlife and Fisheries Agents, Sheriffs and their deputies, Constables, and other such authorized agents and officers.

4. Certain improvements have been placed on the area by parties claiming through private landowners. Pending resolution of the title disputes between the State and those landowners, those improvements may remain in place, and any new permanent improvements shall be spaced a minimum of 500 feet from any existing or newly constructed improvements. All blinds, stands, or other improvements placed on the lands or water bottoms for use in hunting shall be removed upon termination of the legal hunting seasons. Other than such temporary hunting blinds as may be constructed for personal use, no party shall construct any buildings, levees, dams, fences, or other structures or facilities on the lands or water bottoms within the Wax Lake Area, nor dredge or dig any additional canals, ditches, or ponds thereon or otherwise change or alter the premises in any manner.

5. No member of the public is allowed to "stake a claim" to any particular location within areas owned or claimed by the State of Louisiana for any purpose. Construction of permanent blinds shall not give such party any right to exclude others.

6. Challenges to the validity of this Declaration of Emergency shall be in conformity with the provisions of R.S. 49:953.B(3).

Mark C. Drennen  
Commissioner of Administration

0112#008

## DECLARATION OF EMERGENCY

### Office of the Governor Groundwater Management Commission

Groundwater Management  
(LAC 70:XIII.Chapters 31-35)

Pursuant to the provisions of the Louisiana Administrative Procedure Act, R.S. 49:953.B(1), (2), 954.B(2), as amended, on May 18, 2001, the Groundwater Management Commission (Commission) approved the subject Emergency Rules for hearing regarding the designation of Critical Groundwater Areas on August 20, 2001 and revised herein on November 28, 2001. The Emergency Rules satisfy the requirements mandated by Act 446 of the 2001 Regular Session, which states that the Commission shall develop and promulgate rules and regulations for the determination of critical groundwater areas and possible limitation of access to groundwater sources and response to emergency situations. Failure to designate and protect critical ground areas may endanger drinking water, as well as the ability of industry and agriculture to utilize these fresh water aquifers for commercial purposes. The Act specifically requires that public hearing be held in such matters and the attached Emergency Rules provide the mechanism to meet that requirement.

These Emergency Rules were reissued pending final Rules.

These Rules will be effective November 30, 2001, and remain so for 120 days.

## Title 70

### TRANSPORTATION

#### Part XIII. Water Management and Control

##### Subpart 2. Groundwater Management

#### Chapter 31. General Provisions

##### §3101. Applicability

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:

##### §3103. Definitions

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

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

*Commission* CGround Water Management Commission authorized by R.S. 38:3099.3(A).

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:

### **Chapter 33. Application Procedure**

#### **§3301. Who May Apply**

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:

#### **§3303. Notice of Intent**

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

1. name, address, and telephone number;
2. a brief description of the subject matter of the proposed application;
3. a brief description of location including parish, section, township, range, and a map which shall be sufficiently clear to readily identify the location of the proposed CGWA;
4. a statement that, if the area is designated a CGWA, ground water use may be restricted;
5. a statement that all comments should be sent to:  
Commissioner of Conservation  
Post Office Box 94275  
Baton Rouge, LA 70804-9275

ATTN: Groundwater Management Commission Staff

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:

#### **§3305. Application**

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

1. the name, address, telephone number, and signature of applicant;
2. a statement identifying the applicant's interest which is or may be affected by the subject matter of the application;
3. identification of the source of ground water (aquifer) to which the application applies;
4. identification of the proposed critical ground water area, including its location (section, township, range and parish) and U.S. Geological Survey topographic map of appropriate scale (1:24,000, 1:62,500, 1:100,000, or LA - DOTD Louisiana parish map outlining the perimeter of the area). Submittal of digital data is recommended. Digital map data in vector and/or raster formats should have supporting metadata;
5. statement of facts and evidence supporting the application, pursuant to §3307, and a statement on how no action would likely impact ground water resources in the area subject to request.

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

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

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:

#### **§3307. Criteria for a Critical Ground Water**

##### **Designation**

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

1. water levels in the source of ground water show declines that will render such source inadequate for current or immediate future demands without some action being taken, and/or
2. concentrations of chlorides, total dissolved solids (TDS) or other impurities that will render the source of ground water unsuitable for domestic use have shown annual increases that will render such source unsuitable for current or immediate future demands without some action being taken and/or
3. overall withdrawals annually have exceeded the recharge of the source of ground water that will render the source inadequate for current or immediate future demands without some action being taken.

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

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:

### §3309. Commission Review

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

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:

### §3311. Recordkeeping

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:

## Chapter 35. Hearing

### §3501. Notice of Hearing

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

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:

### §3503. Rules of Conduct

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:

### §3505. Decision

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:

Karen K Gautreaux  
Chairperson

0112#029

## DECLARATION OF EMERGENCY

### Office of the Governor Office of Women's Services

Domestic Violence Projects (LAC 4:VII.1747 and 1749)

In accordance with the Administrative Procedure Act, R.S. 49:953(B), the Executive Director of the Governor's Office of Women's Services (OWS) is exercising the emergency provisions of the Administrative Procedures Act in adopting the following rules for the implementation of domestic violence projects to further the goals of and the intentions of the federal Temporary Assistance to Needy Families Block Grant funds. This Emergency Rule facilitates expenditures of Temporary Assistance to Needy Families (TANF) funds authorized by Act 12 of the 2001 Regular Session of the Louisiana Legislature for support and implementation of the following domestic violence projects:

1. outreach services for rural victims to include advocacy, crisis intervention, legal advocacy and specific services for children. This is a rural community-organizing project with the goal to establish self-sustaining services;
2. services for children in family violence shelters/programs to include playgroups, parenting groups, individual intakes, evaluations and safety plans;
3. training on domestic violence for DSS employees. OFS and OCS employees will be provided with the education, methods and techniques needed to make safe, appropriate assessment of domestic violence victims;
4. law enforcement training on domestic violence. Sheriffs, Police, and State Police officers will be trained as first responders in family violence situations.

This is in accordance with federal and state regulations (45 CFR Part 260 et al and LAC 67:111 Subpart 15). The Emergency Rule is in effect as of November 8, 2001 and will remain in effect for a period of 120 days.

The agency has, therefore, determined that this Emergency Rule is essential in alleviating the imminent peril to the welfare and safety of women and children living in dangerous and abusive situations and needing immediate intervention. Assistance with finding safe and secure shelter away from the perpetrator and follow-up services provided by domestic violence programs offers opportunities for mother and children that would not be possible if they remain at home with the constant threat of violence.

#### Title 4

#### ADMINISTRATION

#### Part VII. Governor's Office

#### Chapter 17. Women's Services

#### Subchapter E. Domestic Violence Projects

#### §1747. General Provisions

A. These programs will encourage the formation and maintenance of two-parent families by providing training and crisis services to assist women and children living in a "special needs" situation, family violence, in order to promote their safety, self-sufficiency and the opportunity to develop healthy non-violent two-parent families.

1. Rural Outreach. Designed to create new services, create coordinated community response teams, and develop a Rural Project Assistance Program for financial assistance

2. Children's Services. Designed to create, increase and enhance children's services as outlined in the Office of Women's Services Quality Assurance Standards.

3. Domestic Violence Training for the Department of Social Services. Designed to provide Office of Family Support and Office of Community Services staff members with the ability to recognize and refer clients that may be in a domestic violence situation as it relates to their specific job duties

4. Law Enforcement Training. Designed to create an advisory task force of law enforcement groups, provide training for law enforcement groups, and to provide resource/referral information to law enforcement training participants to take back their communities

#### §1749. Guidelines for Eligibility

A. There are no eligibility guidelines for training projects. Eligibility for Rural Project and Children's Project includes a family with parent/caretaker relative and child. Eligibility is valid if a child has been removed from the home due to domestic violence.

Vera Clay  
Executive Director

0112#080

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Board of Certification for Substance Abuse Counselors

Registration for Prevention Specialists in  
Training Supervisors; Training Institutions  
(LAC 46:LXXX.Chapter 17)

Editor's Note: A hard copy of this Emergency Rule was submitted to the Office of the State Register on October 9, 2001. The insertion order containing permission to print along with the text on diskette was submitted to the Office of the State Register on December 11, 2001. Therefore, this Emergency Rule is being published in the December 2001 issue of the *Louisiana Register*.

The Louisiana State Board of Certification for Substance Abuse Counselors (LSBCSAC) is exercising the emergency provisions of the Administrative Procedure Act, more particularly R.S. 49:953(B), to amend its Rules to provide for Prevention Specialists in Training.

This Emergency Rule is necessary to implement changes to the current Rules to allow the registration of Prevention Specialists in Training in order to comply with Act 1017 of the Regular Legislative Session of 2001 creating such an entity. A delay in promulgating Rules would have an adverse impact on the individuals who may qualify to become certified as Prevention Specialists in Training, as well as the recipients of such services. Therefore, the LSBCSAC has determined that this Emergency Rule is necessary in order to prevent imminent peril to the welfare of the affected applicants and members of the consuming public.

This Declaration of Emergency is effective September 21, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part LXXX. Board of Certification for Substance Abuse Counselors**

**Chapter 17. Registration and Board Approved Programs**

**§1701. Counselor in Training or Prevention Specialist in Training**

A. The board shall develop policies and procedures for the operation of a counselor in training program and a prevention specialist in training program

B. A person who is in the process of obtaining the education, training, and experience required to meet the requirement for certification may register with the board as a trainee.

C. The designation of counselor in training and prevention specialist in training, also known as CIT and PSIT respectively, shall be granted for a period beginning with approval of the request for CIT or PSIT status and extending to the nearest renewal date one year after approval, provided:

1. a personal data form supplying required information on identification, place of employment, training institution, and qualified professional supervisor is completed satisfactorily;

2. the qualified professional supervisor is registered with the board or provides a written statement of credentials and commitment to provide adequate supervision;

3. the training institution is registered with the board or provides a written statement of availability of suitable duties and satisfactory supervision both functionally and professionally;

4. a signed statement is supplied attesting to the registrant's intention to seek certification as a board certified substance abuse counselor, board certified compulsive gambling counselor, or board certified prevention specialist. This statement shall also attest to the registrant accepting responsibility for all actions, holding the LSBCSAC harmless, and agreeing to comply with the requirements of the LSBCSAC;

5. the nominal fee for CIT or PSIT registration is paid.

D. Registration as a counselor in training or prevention specialist in training shall be renewed annually for a maximum of five consecutive years after the initial one year period of registration provided:

1. the renewal form is completed and submitted prior to expiration of the current registration;

2. the person continues to be in an appropriate training environment and under qualified professional supervision;

3. the nominal fee for annual renewal of CIT or PSIT registration is paid;

4. there have been no unresolved complaints against the trainee.

E. Any person who chooses not to register as a counselor in training or prevention specialist in training shall be responsible to provide documentation that the rules and regulations of the board have been complied with at the time of application for certification or at any other time that a question to the contrary may be raised by any person.

AUTHORITY NOTE: Promulgated in accordance with LSA R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:638 (May, 1993); amended LR 25:1245 (July 1999), LR 28:

**§1703. Registered Counselor Supervisor**

A. - C.2. ...

3. have obtained at least 60 clock hours of education in supervision or management, with one semester credit hour being the equivalent of 15 clock hours.

D. - E. ...

F. A registered counselor supervisor shall be authorized to perform the following duties:

1. supervise substance abuse counselors;

2. direct supervision of a counselor in training or prevention specialist in training;

F.3. - G ...

AUTHORITY NOTE: Promulgated in accordance with LSA R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:638 (May 1993), amended LR 28:

**§1705. Approved Training Institution**

A. ...

B. Institutions which provide clinical treatment of substance abuse or compulsive gambling or offer substance abuse counseling, compulsive gambling counseling or prevention intervention services, have sufficient qualified clinical staff, and can offer supervised clinical positions as substance abuse counselors, compulsive gambling counselors, counselors in training and/or prevention specialists in training, may register with the board as an approved training institution, also known as ATI, offering clinical experience for persons wishing to apply to become candidates for board certification. An agency, corporation, organization, partnership, organized health care facility, or other autonomous organizational entity shall qualify as an institution for the purposes of this rule.

C. The designation of approved training institution is granted to the nearest renewal date one year after the request for ATI status is approved, provided:

1. a satisfactory application form is submitted;

2. the institution is licensed appropriately to provide substance abuse or compulsive gambling treatment or substance abuse counseling, compulsive gambling counseling, or prevention intervention services;

3. the institution provides a statement signed by an authorized officer of the institution to document the institution's desire to provide clinical training in substance abuse counseling, compulsive gambling counseling, or prevention and acknowledgment of responsibility for such activities. This statement must contain acknowledgment that the institution is independent of the LSBCSAC, that it will hold the LSBCSAC harmless, and that it will comply with the requirements of the LSBCSAC;

4. the institution provides statements documenting the appropriateness of their clinical treatment setting, the qualifications of its staff to provide daily clinical supervision and frequent direct supervision of trainees, and the planned duties and training program in which the trainees will be engaged. This statement must document that training, experience, and supervision in all 12 core functions or six performance domains will be provided;

5. - 6. ...

7. the institution agrees to an annual audit review of its clinical training programs for substance abuse counselors, compulsive gambling counselors, counselors in training and prevention specialists in training and continuous quality improvement program by a registered counselor supervisor, and audit or review of its records at any time requested by the board;

8. ...

D. Registration as an approved training institution shall be renewed annually, provided:

1. a satisfactory renewal form is received prior to the expiration date of the current registration;

2. the annual audit report of the institution's clinical training programs for substance abuse counselors, compulsive gambling counselors, counselors in training and prevention specialists in training and continuous quality improvement program signed by a registered counselor supervisor is filed;

3. - 4. ...

E. An approved training institution shall be authorized to:

1. announce to the public and advertise the availability of its clinical training program;

2. employ counselors in training and prevention specialists in training;

3. ...

F. Persons submitting application for certification which list experience from institutions which are not registered as an ATI must document that the institution where the experience was obtained meets standards equivalent to those of this board. Equivalence may be demonstrated by:

1. the institution is approved as a clinical training institution for substance abuse counselors, compulsive gambling counselors, counselors in training and/or prevention specialists in training by the certifying authority in the state where the institution is located;

2. the institution is approved as a clinical training institution for substance abuse counselors, compulsive gambling counselors, counselors in training and/or prevention specialists in training by a certifying authority with which the board has a current agreement of reciprocity;

3. - 3.c. ...

d. that training, experience, and supervision in all 12 core functions or six performance domains was provided.

AUTHORITY NOTE: Promulgated in accordance with LSA R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19:639 (May, 1993), amended LR 28:

Ellen R. Calvert  
Chairman

0112#118

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Office of the Secretary Bureau of Community Supports and Services

Home and Community Based Services Waiver  
Program Adult Day Health Care Waiver  
Request for Services Registry

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts the following emergency rule under the Administrative Procedure Act, R.S. 49:950 et seq. The Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implemented the Adult Day Health Care Waiver Program effective January 6, 1985. The Adult Day Health Care Waiver was designed to meet the individual needs of aged and functionally impaired adults by providing a variety of health, social and related support services in a protective setting. Candidates who meet all of the eligibility criteria are ranked in the order of the date on record when the candidate initially requested to be evaluated for waiver eligibility and placed on waiting lists maintained by the participating Adult Day Health Care centers. In order to facilitate the efficient management of the waiver waiting list, the department now proposes to transfer responsibility for the Adult Day Health Care Waiver waiting lists to the Bureau of Community Supports and Services and to establish a single state-wide request for services registry.

This action is being taken to avoid possible federal sanctions. It is estimated that the implementation of this Emergency Rule has no fiscal impact other than the administrative cost of promulgating the Rule.

#### Emergency Rule

Effective December 3, 2001, the Department of Health and Hospitals transfers responsibility for the waiting list for the Adult Day Health Care (ADHC) Waiver to the Bureau of Community Supports and Services (BCSS) and consolidates the approximately 27 waiting lists into a centralized state-wide request for services registry that is maintained by region and arranged in order of the date of the initial request. On or after December 3, 2001, persons who wish to be added to the request for services registry shall contact a toll-free telephone number maintained by BCSS. Those persons on the existing waiting lists prior to the date of the transfer of responsibility to BCSS shall remain on the request for services registry in the order of the date on record when the candidate initially requested waiver services. When a candidate is listed on more than one waiting list, the earliest date on record shall be considered the date of initial request.

The adult day health care centers shall continue to be responsible for maintenance of the ADHC waiver waiting lists through November 30, 2001 and shall submit a copy of the complete waiting lists to BCSS by December 14, 2001. The waiting lists must contain at least the following identifying information on each candidate: name, address, telephone number, date of birth, social security number, the date of initial request to be placed on the waiting list, and Medicaid identification number (if applicable). The list should also contain the name, address and telephone number of a responsible party, if that person made the initial contact with the center.

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. She is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood  
Secretary

0112#108

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Office of the Secretary Community Supports and Services**

Home and Community Based Services Waiver  
Program Elderly and Disabled Adult Waiver  
Request for Services Registry

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts the following Emergency Rule under the Administrative Procedure Act, R.S. 49:950 et seq. The Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure 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 in August 1993 establishing the Home Care for the Elderly Waiver Program to provide community based services to individuals who are age 65 and older and meet the medical certification and financial eligibility requirements for nursing facility care (*Louisiana Register*, Volume 19, Number 8). The August 1993 Rule was amended by a Rule adopted in January 1998 to:

- 1) redefine the target population served by the Elderly and Disabled Adult (EDA) waiver and rename the waiver;
  - 2) establish an average cost per day limit for each participant of the waiver;
  - 3) establish and define new services;
  - 4) establish methodology for the assignment of slots;
- and

5) clarify admission and discharge criteria, mandatory reporting requirements and the reimbursement requirement for the prior approval of the plan of care (*Louisiana Register*, Volume 24, Number 1).

The waiting lists for the EDA waiver are currently maintained by 64 local Council on Aging agencies. In order to facilitate the efficient management of the waiver waiting list, the Department now proposes to transfer responsibility for the Elderly and Disabled Adult waiver waiting list to the Bureau of Community Supports and Services and to establish a single state-wide request for services registry. Provisions contained in the previously cited Rules that are not related to the Elderly and Disabled Adult waiver waiting list are not affected by adoption of this Emergency Rule.

This action is being taken to avoid possible federal sanctions. It is estimated that the implementation of this Emergency Rule has no fiscal impact other than the administrative cost of promulgating the Rule.

### **Emergency Rule**

Effective December 3, 2001, the Department of Health and Hospitals amends the January 1998 Rule to incorporate the transfer of responsibility for the waiting list for the Elderly and Disabled Adult waiver to the Bureau of Community Supports and Services (BCSS) and consolidate the 64 waiting lists into a centralized state-wide request for services registry arranged in order of the date of the initial request. On or after December 3, 2001, persons who wish to be placed on the request for services registry shall contact a toll-free telephone number maintained by BCSS. Those persons on the waiting lists prior to the date of the transfer of responsibility to BCSS shall remain on the request for services registry in the order of the date on record when the candidate initially requested to be evaluated for waiver services.

The Councils on Aging shall continue to be responsible for maintenance of the waiting lists through November 30, 2001 and shall submit a copy of the complete waiting lists to BCSS by December 14, 2001. The waiting lists must contain at least the following identifying information on each candidate: name, address, telephone number, date of birth, social security number, the date of initial request to be placed on the waiting list, and Medicaid identification number (if applicable). The list should also contain the name, address and telephone number of a responsible party, if that person made the initial contact with the Council on Aging.

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. She is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood  
Secretary

0112#110



## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Office of the Secretary Bureau of Community Supports and Services

Home and Community Based Services  
Waiver Program  
Personal Care Attendant  
Waiver  
Request for Services Registry

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts the following Emergency Rule under the Administrative Procedure Act, R.S. 49:950 et seq. The Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure 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 in February 1993 to implement a home and community services waiver to provide Personal Care Attendant (PCA) services to individuals who have lost sensory or motor functions and require assistance with personal care needs, ambulation and other related services. Candidates who meet all of the eligibility criteria are ranked by degree of need using the Degree of Need formula. Waiver slots in the three designated service areas are then filled in order of the highest scores as determined by the formula (*Louisiana Register*, Volume 19, Number 2).

The three PCA waiver waiting lists are currently maintained by the regional PCA waiver provider agencies. In order to facilitate the efficient management of the waiver waiting list, the Department now proposes to transfer responsibility for the Personal Care Attendant (PCA) Waiver waiting list to the Bureau of Community Supports and Services and establish a single state-wide request for services registry. Provisions contained in the previously cited Rule that are not related to the Personal Care Attendant waiver waiting list are not affected by adoption of this Emergency Rule.

This action is being taken to avoid possible federal sanctions. It is estimated that the implementation of this Emergency Rule has no fiscal impact other than the administrative cost of promulgating the Rule.

#### Emergency Rule

Effective December 3, 2001, the Department of Health and Hospitals transfers responsibility for the Personal Care Attendant (PCA) waiver waiting list to the Bureau of Community Supports and Services (BCSS) and consolidates the three waiting lists into a state-wide request for services registry arranged by degree of need and the date of the initial request. On or after December 3, 2001, persons who wish to be placed on the request for services registry shall contact a toll-free telephone number maintained by BCSS. Those persons on the existing waiting lists prior to the date of the transfer of responsibility to BCSS shall remain on the request for services registry in the order of degree of need score and the date on record when the candidate initially requested waiver services.

The PCA Waiver provider agencies shall continue to be responsible for maintenance of the PCA waiver waiting lists through November 30, 2001 and shall submit a copy of the complete waiting lists to BCSS by December 14, 2001. The

waiting lists must contain at least the following identifying information on each candidate: name, address, telephone number, date of birth, social security number, the date of initial request to be placed on the waiting list, and Medicaid identification number (if applicable). The list should also contain the name, address and telephone number of a responsible party, if that person made the initial contact with the agency.

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. She is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood  
Secretary

0112#112

## DECLARATION OF EMERGENCY

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

Early and Periodic Screening, Diagnosis and Treatment  
Program  
Psychological and Behavioral Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides coverage for an extensive range of medical services, including Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services for Medicaid recipients up to the age of 21. As a result of a lawsuit, the Department was ordered to make available to class members with autism appropriate psychological and behavioral services. Therefore, the bureau proposes to furnish reimbursement for these psychological and behavioral services under the EPSDT program. This action is being taken to promote the health and welfare of Medicaid eligible children who have a diagnosis of autism or other pervasive developmental disorders by ensuring access to psychological and behavioral services. It is estimated that implementation of this Emergency Rule will increase expenditures to the Medicaid program by approximately \$7,500,000 for state fiscal year 2001-2002.

#### Emergency Rule

Effective for dates of service on or after January 1, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses psychological and behavioral services under the Early and Periodic Screening, Diagnosis and Treatment Program for recipients who have a diagnosis of autism or other pervasive developmental disorders and are up to the age of 21.

A. Eligibility Criteria. In order to be eligible for services, a Medicaid recipient must be up to the age of 21 and meet one of the following criteria:

1. have a diagnosis of Pervasive Developmental Disorder (PDD) according to a clinically appropriate diagnostic screening tool or other assessment; or

2. have an impaired functional status that can be addressed by psychological treatment on an instrument or other assessment of individual functioning that is appropriate for individuals with developmental disabilities; or

3. engage in behaviors so disruptive or dangerous that harm to others is likely (e.g., hurts or attempts to hurt others, such as hitting, biting, throwing things at others, using or threatening to use a weapon or dangerous object). Behaviors are recurrent, not a single instance; or

4. engage in behaviors that have resulted in actual physical harm to the child himself/herself, such as bruising, lacerations or other tissue damage, or would result in physical harm if the child was not physically restrained. Behaviors are recurrent, not a single instance. Behaviors are not the result of clinically suicidal intent.

B. Services. Services provided will include:

1. necessary evaluations;

2. family education and training;

3. clinical interventions;

4. periodic follow-up;

5. linkages to emergency mental health services in crisis situations; and

6. services routinely performed by psychologists in the practice of psychology.

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

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

David W. Hood  
Secretary

0112#111

## **DECLARATION OF EMERGENCY**

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

**Medicaid Eligibility Breast and Cervical  
Cancer Treatment Program**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the

maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Breast and Cervical Cancer Prevention and Treatment Act of 2000 (BCCPTA) amended Title XIX of the Social Security Act to give states enhanced matching funds to provide Medicaid eligibility to a new group of individuals previously not eligible under the program. The new option allows states to provide full Medicaid benefits to uninsured women under age 65 who are identified through the Centers for Disease Control and Prevention's National Breast and Cervical Cancer Early Detection Program and are in need of treatment for breast or cervical cancer, including pre-cancerous conditions and early stage cancer.

In compliance with the Breast and Cervical Cancer Prevention and Treatment Act of 2000, the Bureau proposes to establish an optional eligibility group to provide Medicaid eligibility to women who are in need of treatment for breast or cervical cancer, including pre-cancerous conditions and early stage cancer. This action is being taken to protect the health and welfare of uninsured women with breast or cervical cancer by ensuring access to medical services. It is estimated that implementation of this Emergency Rule will increase expenditures to Medicaid providers by approximately \$1,661,607 for state fiscal year 2001-2002.

### **Emergency Rule**

Effective January 1, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes an optional eligibility group to provide Medicaid eligibility to women who are in need of treatment for breast or cervical cancer, including pre-cancerous conditions and early stage cancer.

### **Eligibility Criteria**

Regular income and resource criteria are not applicable for Medicaid benefits under this optional eligibility group. However, the applicant's income must be under 250 percent of the federal poverty level in order to qualify for screening under the Centers for Disease Control and Prevention's Breast and Cervical Cancer Early Detection Program.

Women must meet all of the following criteria in order to be considered for the optional eligibility group.

1. the woman must have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention's Breast and Cervical Cancer Early Detection Program and found to need treatment for either breast or cervical cancer, including pre-cancerous conditions and early stage cancer; and

2. she must be uninsured (or if insured, has coverage that does not include treatment of breast or cervical cancer) and ineligible under any of the mandatory Medicaid eligibility groups; and she must be under age 65.

### **Coverage**

A woman who becomes eligible under this new optional category is entitled to full Medicaid coverage. Coverage is not limited to treatment of breast and cervical cancer.

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

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

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

David W. Hood  
Secretary

0112#109

**DECLARATION OF EMERGENCY**

**Department of Public Safety and Corrections  
Office of the State Fire Marshal**

State Uniform Construction Code (LAC 55:V.4001)

In accordance with the provisions of R.S. 49:953.B of the Administrative Procedure Act and R.S. 40:1725 et seq. relative to the authority of the State Fire Marshal to promulgate rules and regulations and to declare the content of the State Uniform Construction Code, the State Fire Marshal hereby finds that an imminent peril to public safety may exist in that jurisdictions within Louisiana that have adopted the 1994 or the 1997 editions of the Standard Building Code predicated solely upon adoption of amendments subsequent to 1991 by the Southern Building Code Congress International may have improperly applied R.S. 40:1728A, and that the imminent availability of two separate and distinct model codes within calendar year 2002 will require intensive review and comparison by the State Fire Marshal prior to selection of a model code as the State Uniform Construction Code. Failure to adopt this rule on an emergency basis will adversely affect the orderly statutory process of promulgation of the State Uniform Construction Code insofar as local jurisdictions are required to act only after the State Fire Marshal has promulgated rules necessary for the enforcement of the State Uniform Construction Code. It is therefore necessary that the content of the State Uniform Construction Code be unambiguous and known so that local jurisdictions may achieve the consistent statewide application that is the goal of the State Uniform Construction Code. Therefore, pursuant to the authority vested in the State Fire Marshal in R.S. 40:1728E, the State Fire Marshal finds it necessary to immediately publish the Rules and Regulations that provide for proper adoption of the State Uniform Construction Code and that this objective requires the immediate adoption of the following Emergency Rules.

**Title 55**

**PUBLIC SAFETY**

**Part V. Fire Protection**

**Chapter 40. State Uniform Construction Code**

**§4001. State Uniform Construction Code**

A. The Office of state Fire Marshal hereby adopts the 1997 edition of the Standard Building Code as published by the Southern Building Code Congress International, Inc., and the 1999 edition of the National Electrical Code as published by the National Fire Protection Association as the State Uniform Construction Code.

B. In accordance with the requirements set forth in R.S. 40:1725 et seq., plans and specifications for any and all buildings to be constructed in the state after December 20, 2001 shall comply with the minimum standards contained in the State Uniform Construction Code.

C. Alterations, remodeling or repairs performed after December 20, 2001 to existing buildings, shall be performed in accordance with the State Uniform Construction Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1725, R.S. 40:1726, R.S. 40:1727, R.S. 40:1728, R.S. 40:1729 AND R.S. 40:1730.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 28:

V.J. Bella  
State Fire Marshal

0112#026

**DECLARATION OF EMERGENCY**

**Department of Revenue  
Tax Commission**

Ad Valorem Tax  
(LAC 61:V.309, 703, 907, 1103, 1503,  
2503, 2705, 2707, 3103, 3301, 3501)

The Louisiana Tax Commission, at its meeting of December 6, 2001, exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, adopted the following additions, deletions and amendments to the Real and Personal Property Rules and Regulations.

This emergency rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2002. Cost indexes required to finalize these assessment tables are not available to this office until late October, 2001. The effective date of this emergency rule is January 1, 2002.

**Title 61**

**REVENUE AND TAXATION**

**Part V. Ad Valorem Taxation**

**Chapter 3. Real and Personal Property**

**§309. Tax Commission Miscellaneous Forms**

A. - E. ...

F. TC Form 65, Application For Special Assessment Level, should be used by certain eligible persons, 65 years of age or older, to apply annually for the special assessment level in accordance with R.S. 47:1712.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1712 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 21:186 (February 1995), amended LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 27:424 (March 2001), LR 28:

**Chapter 7. Watercraft**  
**§703. Tables C Watercraft**

A. Floating Equipment C Motor Vessels

Floating Equipment C Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2001	1.001	1	94	.94
2000	1.009	2	87	.88
1999	1.028	3	80	.82
1998	1.031	4	73	.75
1997	1.040	5	66	.69
1996	1.056	6	58	.61
1995	1.073	7	50	.54
1994	1.111	8	43	.48
1993	1.142	9	36	.41
1992	1.165	10	29	.34
1991	1.179	11	24	.28
1990	1.202	12	22	.26
1989	1.235	13	20	.25

B. Floating Equipment C Barges (Nonmotorized)

Floating Equipment C Barges (Nonmotorized)				
Cost Index (Average)		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2001	1.001	1	97	.97
2000	1.009	2	93	.94
1999	1.028	3	90	.93
1998	1.031	4	86	.89
1997	1.040	5	82	.85
1996	1.056	6	78	.82
1995	1.073	7	74	.79
1994	1.111	8	70	.78
1993	1.142	9	65	.74
1992	1.165	10	60	.70
1991	1.179	11	55	.65
1990	1.202	12	50	.60
1989	1.235	13	45	.56
1988	1.301	14	40	.52
1987	1.356	15	35	.47
1986	1.376	16	31	.43
1985	1.389	17	27	.38
1984	1.410	18	24	.34
1983	1.448	19	22	.32
1982	1.474	20	21	.31
1981	1.543	21	20	.31

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:

**Chapter 9. Oil and Gas Properties**  
**§907. Tables - Oil and Gas**

A. ...

1. Oil, Gas and Associated Wells; Region 1 - North Louisiana

Table 907.A.1 Oil, Gas and Associated Wells Region 1C North Louisiana				
Producing Depths	Cost - New by Depth, per Foot		15% of Cost - New by Depth, per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 - 1,249 ft.	8.30	19.16	1.25	2.87
1,250 - 2,499 ft.	9.93	12.82	1.49	1.92
2,500 - 3,749 ft.	13.66	13.15	2.05	1.97
3,750 - 4,999 ft.	15.03	15.60	2.25	2.34
5,000 - 7,499 ft.	20.62	20.77	3.09	3.12
7,500 - 9,999 ft.	24.52	28.89	3.68	4.33
10,000 -12,499 ft.	36.40	35.32	5.46	5.30
12,500 -Deeper ft.	N/A	68.76	N/A	10.31

2. Oil, Gas and Associated Wells; Region 2 - South Louisiana

Table 907.A.2 Oil, Gas and Associated Wells Region 2 - South Louisiana				
Producing Depths	Cost - New by Depth, per Foot		15% of Cost - New by Depth, per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 - 1,249 ft.	14.87	76.13	2.23	11.42
1,250 - 2,499 ft.	66.57	75.74	9.99	11.36
2,500 - 3,749 ft.	61.04	67.65	9.16	10.15
3,750 - 4,999 ft.	39.00	50.09	5.85	7.51
5,000 - 7,499 ft.	52.94	48.12	7.94	7.22
7,500 - 9,999 ft.	57.84	56.65	8.68	8.50
10,000 -12,499 ft.	59.21	69.07	8.88	10.36
12,500 -14,999 ft.	69.92	87.72	10.49	13.16
15,000 -17,499 ft.	96.74	113.55	14.51	17.03
17,500 -19,999 ft.	90.70	143.69	13.61	21.55
20,000 -Deeper ft.	104.69	197.77	15.70	29.67

3. Oil, Gas and Associated Wells; Region 3 - Offshore State Waters

Table 907.A.3 Oil, Gas and Associated Wells Region 3 - Offshore State Waters*				
Producing Depths	Cost - New by Depth, per Foot		15% of Cost - New by Depth, per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 - 1,249 ft.	N/A	N/A	N/A	N/A
1,250 - 2,499 ft.	317.00	433.06	47.55	64.96
2,500 - 3,749 ft.	238.49	319.29	35.77	47.89
3,750 - 4,999 ft.	248.15	169.87	37.22	25.48
5,000 - 7,499 ft.	206.16	162.59	30.92	24.39
7,500 - 9,999 ft.	188.59	156.63	28.29	23.49
10,000 -12,499 ft.	182.24	161.96	27.34	24.29
12,500 -14,999 ft.	165.39	174.21	24.81	26.13
15,000 -17,499 ft.	161.48	215.27	24.22	32.29
17,500 -Deeper ft.	462.60	311.06	69.39	46.66

A.4. - B.1. ...

2. Serial Number to Percent Good Conversion Chart

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	25 Year Life Percent Good
2001	225352	Higher	96
2000	223899	225351	92
1999	222882	223898	88
1998	221596	222881	84
1997	220034	221595	80
1996	218653	220033	76
1995	217588	218652	72
1994	216475	217587	68
1993	215326	216474	64
1992	214190	215325	60
1991	212881	214189	56
1990	211174	212880	52
1989	209484	211173	48
1988	207633	209483	44
1987	205211	207632	40
1986	202933	205210	36
1985	197563	202932	32
1984	Lower	197562	30*
VAR.	900000	Higher	50

\* Reflects residual or floor rate.

B.3 - 6 [NOTE] ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:

**Chapter 11. Drilling Rigs and Related Equipment**

**§1103. Drilling Rigs and Related Equipment Tables**

A.1. Land Rigs

Table 1103.A Land Rigs		
Depth "0" To 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
3,000	\$316,600	\$47,500
4,000	\$374,000	\$56,100
5,000	\$442,700	\$66,400
6,000	\$511,400	\$76,700
7,000	\$589,900	\$88,500
Depth 8,000 To 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
8,000	\$671,600	\$100,700
9,000	\$789,400	\$118,400
10,000	\$1,015,200	\$152,300
Depth 11,000 To 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
11,000	\$1,240,900	\$186,100
12,000	\$1,339,700	\$201,000
13,000	\$1,396,100	\$209,400
14,000	\$1,472,400	\$220,900
15,000	\$1,608,200	\$241,200

Depth 16,000 To 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
16,000	\$1,743,900	\$261,600
17,000	\$2,026,700	\$304,000
18,000	\$2,358,500	\$353,800
19,000	\$2,651,200	\$397,700
20,000	\$2,827,000	\$424,100
Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
21,000	\$3,002,800	\$450,400
25,000 +	\$3,705,800	\$555,900

A.2. - C. ...

NOTE: The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

D. Well Service Rigs - Land Only (Good Condition)

Table 1103.D Well Service Rigs Land Only (Good Condition)				
Class	Mast	Engine	Fair Market Value	Assessment
I	72' X 125M# 75' X 150M#	6V71	127,750	19,200
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	8V71	160,125	24,000
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	8V92	192,500	28,900
IV	102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M#	12V71	210,875	31,600
V	105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M#	12V71 12V92	269,150	40,400
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	12V71 (2) 8V92	311,500	46,700
VII	117' X 215M#	(2) 8V92 (2) 12V71	390,775	58,600

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:

**Chapter 15. Aircraft**

**§1503. Aircraft (Including Helicopters) Table**

A. Aircraft

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (10 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2001	1.001	1	92	.92
2000	1.009	2	84	.85
1999	1.028	3	76	.78
1998	1.031	4	67	.69
1997	1.040	5	58	.60
1996	1.056	6	49	.52
1995	1.073	7	39	.42
1994	1.111	8	30	.33
1993	1.142	9	24	.27
1992	1.165	10	21	.24
1991	1.179	11	20	.24

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:

**Chapter 25. General Business Assets**

**§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property**

A. ...

Table 2503.A Suggested Guidelines For Ascertain- ing Economic Lives of Business and Industrial Personal Property	
Business Activity/Type of Equipment	Average Economic Life in Years
***	
Photography Equipment	10
One Hour Photoprocessing Equipment	8
***	

\*\*\*

B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2001 = 100*
2001	1	1093.4	1.001
2000	2	1084.3	1.009
1999	3	1065.0	1.028
1998	4	1061.8	1.031
1997	5	1052.7	1.040
1996	6	1036.0	1.056
1995	7	1020.4	1.073
1994	8	985.0	1.111
1993	9	958.0	1.142

1992	10	939.8	1.165
1991	11	928.5	1.179
1990	12	910.2	1.202
1989	13	886.5	1.235
1988	14	841.4	1.301
1987	15	806.9	1.356
1986	16	795.4	1.376
1985	17	787.9	1.389
1984	18	776.4	1.410
1983	19	755.8	1.448
1982	20	742.4	1.474
1981	21	709.2	1.543
1980	22	642.8	1.703
1979	23	584.4	1.873
1978	24	534.7	2.047
1977	25	497.1	2.202
1976	26	472.1	2.318

\*Reappraisal Date: January 1, 2001 - 1094.5 (Base Year)

C.1. - C.4. ...

D. Composite Multipliers

Table 2503.D Composite Multipliers 2002 (2003 Orleans Parish)								
Age	3 Yr	5 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.70	.85	.90	.92	.94	.95	.97	.98
2	.49	.70	.80	.85	.88	.91	.94	.96
3	.35	.53	.69	.78	.82	.87	.93	.96
4	.21	.35	.56	.69	.75	.81	.89	.93
5		.24	.45	.60	.69	.76	.85	.90
6		.21	.35	.52	.61	.72	.82	.89
7			.28	.42	.54	.67	.79	.87
8			.24	.33	.48	.61	.78	.87
9			.23	.27	.41	.56	.74	.86
10				.24	.34	.50	.70	.83
11				.24	.28	.44	.65	.80
12					.26	.37	.60	.77
13					.25	.32	.56	.74
14						.30	.52	.73
15						.28	.47	.71
16						.28	.43	.66
17							.38	.61
18							.34	.55
19							.32	.49
20							.31	.44
21							.31	.40
22								.39
23								.39
24								.41
25								.44
26								.46

Data sources for tables are:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:

**Chapter 27. Guidelines For Application, Classification and Assessment of Land Eligible To Be Assessed At Use Value**

**§2705. Classification**

A. - B. ...

Beauregard	Jefferson Davis
Bienville	Vernon
East Feliciana	West Feliciana

C. ...

AUTHORITY NOTE: Promulgated in accordance with LSA - Constitution of 1974, Article VII, ' 18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:318 (February 1999), LR 26:510 (March 2000), LR 27:428 (March 2001), LR 28:

**§2707. Map Index Table**

<b>Table 2707</b> <b>Map Index Listing of General Soil Maps and Modern Soil Surveys for the State of Louisiana</b> <b>Published by U. S. Dept. of Agriculture,</b> <b>Natural Resources Conservation Service in Cooperation with Louisiana Agricultural Experiment Station</b>			
Parish	Date (General)	Map No. (General)	Date Published or Status (Modern)
***			
[See Prior Text in Acadia - Ouachita]			
Plaquemines	Dec., 1969	4-R-28742-A	March, 2001
***			
[See Prior Text in Pointe Coupee - Winn]			

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 and R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:290 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:946 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999), LR 26:511 (March 2000), LR 27:428 (March 2001), LR 28:

**Chapter 31. Public Exposure of Assessments; Appeals**

**§3103. Appeals to the Louisiana Tax Commission**

A. - K. ...

L. The commission shall take official notice without further identification of the contents of the original records and documents in possession of the commission when duly certified copies thereof are offered into evidence and made a part of the record. Evidence offered at the Board of Review is not forwarded to the Tax Commission and must be submitted by the assessor/taxpayer in accordance with filing procedures for written appeals. The commission may receive other documentary evidence in the form of copies or excerpts or that which is incorporated by reference.

M. - Form 3103.B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 28:

**Chapter 33. Financial Institutions**

**§3301. Guidelines For Ascertaining the Fair Market Value of Financial Institutions**

A. - D.1. ...

2. The calculated price earnings ratio, to be used to compute bank shareholders assessments, shall not change, up or down, by more than 1.5 points from the ratio used in the previous year.

E. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1967, R.S. 47:1968, R.S. 47:1969, R.S. 6:942, R.S. 6:943 and R.S. 6:944.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 13:249 (April 1987), amended LR 16:1064 (December 1990), LR 20:198 (February 1994), LR 28:

**Chapter 35. Miscellaneous**

**§3501. Service Fees--Tax Commission**

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period beginning on July 1, 2001, and ending on June 30, 2003, in connection with services performed by the Tax Commission as follows:

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 28:

Malcolm B. Price, Jr.  
Chairman

0112#098

**DECLARATION OF EMERGENCY**

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

TANF Initiatives  
(LAC 67:III.5505-5547)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953.B, the Administrative Procedure Act, to repromulgate and amend the original adoptions of TANF Initiatives, LAC 67:III.5505-5547, effective November 30, 2001. This emergency rule will remain in effect for a period of 120 days.

Pursuant to Act 12 of the 2001 Regular Session of the Louisiana Legislature, the Office of Family Support began to promulgate rules beginning in August to effect the programs

known collectively as the TANF (Temporary Assistance for Needy Families) Initiatives through five separate emergency rules. Since the agency has determined that some eligibility factors are not consistent with statements in a number of the Memoranda of Understanding entered into with various state departments and other entities, a new Declaration of Emergency is necessary to correct affected language in §§5507, 5511, 5541 and 5547. Because the five preceding emergency rules began, and will expire, on different dates, the agency has determined that the redeclaration of all sections will simplify the rulemaking process. The Notice of Intent covering these sections appeared in the Louisiana Register of November, 2001, but a corrected Notice is expected to be published in the January 2002 issue.

The authorization for emergency action is contained in Act 12 of the Regular Session of the Louisiana Legislature.

#### **Title 67**

### **SOCIAL SERVICES**

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

#### **Chapter 55. TANF Initiatives**

#### **§5505. Non-Public School Early Childhood**

##### **Development Program**

A. OFS shall enter into a Memorandum of Understanding with the Governor's Office, Office of Community Programs, to provide early childhood education to certain four-year-olds in non-public schools.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by placing children in learning environments at the pre-school level to foster an interest in learning, increase literacy levels, and increase the likelihood of developing responsible behavior.

C. Eligibility for services is limited to at-risk families in which the child is one year younger than the eligible age for public school kindergarten and is eligible to receive free or reduced school lunch meals pursuant to the Federal Child Nutrition Program as documented by a completed application for such meals, whether or not such meals are sought.

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

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

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

#### **§5507. Adult Education, Basic Skills Training, Job Skills Training, and Retention Services**

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Workforce Commission to provide adult education, basic skills training, jobs skills training, and retention services to low income families. Employed participants will be provided child care and transportation services. Unemployed participants will be provided short-term child care and transportation services.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing education, training, and employment-related services to low income families in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP)

grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), Free or Reduced School Lunch, or who has earned income at or below 200 percent of the federal poverty level. Within the needy family, only the parent or caretaker relative is eligible to participate. A needy family also includes a non-custodial parent who has earned income at or below 200 percent of the federal poverty level. Families who lose FITAP eligibility because of earned income are considered needy for a period of one year following the loss of cash assistance.

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

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

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

#### **§5509. Domestic Violence Services**

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office of Women's Services to provide for services pertaining to domestic violence including rural outreach, services to children in shelters, and training of law enforcement and DSS personnel.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is not limited to needy families. Eligibility for services is limited to children and/or their parents or caretaker relatives who are victims of domestic violence.

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

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

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

#### **§5511. Micro-Enterprise Development**

A. The Office of Family Support will enter into a Memorandum of Understanding with the Office of Women's Services to provide assistance to low-income families who wish to start their own businesses.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage. This goal will be accomplished by providing assistance to low-income families through the development of comprehensive micro-enterprise development opportunities as a strategy for moving parents into self-sufficiency.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), Free or Reduced School Lunch, or who has earned income at or below 200 percent of the federal poverty level. Only the parent or caretaker relative within the needy family is eligible to participate.

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

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



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

**§5513. Project Return**

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to fund transitional services to former offenders.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by reducing the rate of recidivism. This goal will be accomplished by providing nonmedical substance abuse treatment and counseling, GED and academic enhancement, training in conflict resolution and communication skills, job training, and job placement assistance.

C. Eligibility for services is limited to parents or caretaker relatives of minor children.

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

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

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

**§5515. Job Skills Program**

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to fund services to enhance basic academic skills of state adult inmates through the Job Skills and Education Program, a computer-based instructional system.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by promoting responsible parenthood. This goal will be accomplished by increasing the inmate's wage-earning capacity, improving decision-making skills and ability to cope with change.

C. Eligibility for services is limited to parents of minor children.

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

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

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

**§5517. Project Metamorphosis**

A. OFS shall enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to provide inmates who are within 12 to 18 months of their release date with basic educational/vocational instruction, life skills instruction, and job placement counseling and preparation.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by increasing post-release employment and wage rates leading to the successful integration of released inmates back into their families and communities.

C. Eligibility for services is limited to parents of minor children.

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

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

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

**§5519. Concordia Correctional Life Skills Pre-Release Program at the Concordia Parish Detention Facility**

A. OFS shall enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to provide Concordia Parish Correctional Facility inmates who are within 12 to 18 months of their release date with basic educational/vocational instruction, life skills instruction, and job placement counseling and preparation.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by increasing post-release employment and wage rates leading to the successful integration of released inmates back into their families and communities.

C. Eligibility for services is limited to parents of minor children.

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

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

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

**§5521. Women and Children's Residential Prevention and Treatment Program**

A. OFS shall enter into a Memorandum of Understanding with the Office of Addictive Disorders for a substance abuse prevention and nonmedical treatment program for women with children.

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

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), or Free or Reduced School Lunch.

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

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

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

**§5523. Early Childhood Development Program**

A. OFS shall enter into a Memorandum of Understanding with the Department of Education to provide early childhood education to four-year-olds.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by giving parents of these children an opportunity earlier in the children's lives to become active partners in their education and increase their own literacy level by participating with their children in school programs and also meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births.

C. Eligibility for services is limited to at-risk families in which the child is one year younger than the eligible age for kindergarten and is eligible to receive free or reduced school

lunch meals pursuant to the Federal Child Nutrition Program as documented by a completed application for such meals, whether or not such meals are sought.

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

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

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

#### **§5525. Pre-GED/Skills Option Program**

A. OFS shall enter into a Memorandum of Understanding with the Department of Education for adult education, pre-GED, skills options, and other dropout prevention programs.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by providing intervention and improved life prospects for students.

C. Eligibility for services is not limited to needy families.

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

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

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

#### **§5527. Program Evaluation, Comprehensive Needs Assessment, and Training**

A. OFS shall enter into an Memorandum of Understanding with the Division of Administration to evaluate the TANF initiatives and to conduct a comprehensive needs assessment and training regarding policy and service-delivery deficiencies.

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

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

#### **§5529. Youth in Transition**

A. OFS shall enter into a Memorandum of Understanding with the Office of Community Services to provide services to youth who are aging out of Foster Care.

B. These services meet the TANF goals to encourage the formation and maintenance of two-parent families and to prevent and reduce out-of-wedlock births.

C. Eligibility for services is not limited to needy families.

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

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

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

#### **§5531. After-School Tutorial**

A. OFS shall enter into a Memorandum of Understanding with the Department of Education to provide after-school tutorial services.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by providing intervention and improved life prospects for students.

C. Eligibility for services is not limited to needy families.

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

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

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

#### **§5533. Transportation Services**

A. The Office of Family Support shall make funding available for transportation of employed participants in TANF initiatives administered through other agencies as well as short-term transportation services for some unemployed participants.

B. These services meet the TANF goal to end the dependence on government benefits by promoting job preparation, work, and marriage.

C. Services may or may not be limited to needy families depending on which program the participant is involved in.

D. Services are considered non-assistance.

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

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

#### **§5535. Fatherhood**

A. Act 639 of the 2001 Regular Session of the Louisiana Legislature created the Fatherhood Council to develop a plan to promote and monitor fatherhood initiatives. Funding and services may be provided in accordance with the plan developed by the Fatherhood Council.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by providing programs that promote responsible parenting and increase the capacity of fathers to provide emotional and financial support for their children.

C. Eligibility for services is limited to fathers of minor children.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Acts 12 and 639, 2001 Reg. Session.

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

#### **§5537. Education and Training**

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Department of Education to provide structured after-school programs to help children improve academic performance and to provide literacy and basic education services to adults in need of these services. The Department of Education will implement this program through cooperative endeavor agreements with entities in local communities.

B. These services meet the TANF goals to prevent and reduce the incidence of out-of-wedlock births by providing supervised, safe environments for children thus limiting the opportunities for engaging in risky behaviors, and to encourage the formation and maintenance of two-parent families by providing educational services that enhance a parent's ability to financially and emotionally provide for their children.

C. Eligibility for after-school programs is not limited to needy families. Eligibility for adult education services is limited to parents, legal guardians, and caretaker relatives of minor children.

D. The services are considered non-assistance by the agency.

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

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

#### **§5539. Truancy Assessment and Service Centers**

A. OFS shall enter into a Memorandum of Understanding with the Supreme Court Of Louisiana for Truancy Assessment and Service Centers designed to identify, assess, and intervene to ensure that children in kindergarten through sixth grade attend school regularly.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by providing counseling to children and family members designed to assure regular school attendance and improved academic and behavioral outcomes.

C. Eligibility for services is not limited to needy families.

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

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

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

#### **§5541. Court-Appointed Special Advocates**

A. OFS shall enter into a Memorandum of Understanding with the Supreme Court Of Louisiana to provide services to needy children identified as abused or neglected who are at risk of being placed in foster care or, are already in foster care. Community advocates provide information gathering and reporting, determination of and advocacy for the children's best interests, and case monitoring to provide for the safe and stable maintenance of the children or return to their own home.

B. The services meet the TANF goal to provide assistance to needy families so that children may be cared for in their own homes or in the home of relatives by ensuring that the time children spend in foster care is minimized.

C. Eligibility for services is limited to needy families, that is, one in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP) benefits, Supplemental Security Income (SSI), Free or Reduced School Lunch, or who has earned income at or below 200 percent of the federal poverty level.

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

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

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

#### **§5543. Drug Courts Program**

A. OFS shall enter into a Memorandum of Understanding with the Supreme Court Of Louisiana to provide services to drug court clients that may include nonmedical treatment, assessment, counseling, education, and training. Eligible services shall not include drug court administrative costs.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births and to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is limited to children and to the parents or caretaker relatives of minor children.

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

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

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

#### **§5545. Remediation and Tutoring Programs**

A. OFS shall enter into a Memorandum of Understanding with the Department of Education, Office of Student and School Performance, to establish programs designed to increase the likelihood of a student scoring above the "unsatisfactory" achievement level on the Graduate Exit Exam and the LEAP 21 exam and include:

1. Graduate Exit Exam Summer RemediationCdesigned to provide additional remedial instruction to targeted students, that is, students who scored "unsatisfactory" on the English language arts and/or mathematics components of the Graduate Exit Exam;

2. Louisiana Education Assessment Program (LEAP) 21 Summer RemediationCdesigned to provide additional remedial instruction to targeted students, that is, fourth and eighth grade students who did not take the spring LEAP 21 test and fourth and eighth grade students who scored "unsatisfactory" on the English language arts and/or mathematics components of the LEAP 21; and

3. Louisiana Education Assessment Program (LEAP) 21 TutoringCdesigned to provide intense early intervention and remedial instruction to targeted students in an effort to increase the likelihood of them scoring above the "unsatisfactory" level on the LEAP 21. The targeted group includes fourth and eighth-grade students who have been retained because of their having scored at the "unsatisfactory" level on the English language arts and/or mathematics components of the LEAP 21 tests, and fourth and eighth grade students whose third and seventh grade IOWA test scores were below the thirtieth percentile and are considered to be at risk of scoring at the "unsatisfactory" level on the English language arts and/or mathematics components of the LEAP 21 tests.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by encouraging youths to remain in school, reducing their risk of engaging in negative behavior and increasing opportunities for families to become self-sufficient through education and training.

C. Eligibility for services is limited to families which include a minor child living with a custodial parent, an adult caretaker relative, or a legal guardian. A family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), or Free or Reduced School Lunch is eligible.

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

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

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

#### **§5547. Housing Services**

A. The Department of Social Services, Office of Family Support, may enter into Memoranda of Understanding or contracts to create pilot programs that provide transitional, short-term, or one-time housing services to needy families with minor children who participate in self-sufficiency activities, who are at risk of losing existing housing arrangements, who are in an emergency situation, or who face ineligibility because of increased earnings. These services can include, but are not limited to:

1. relocation assistance;
2. costs associated with moving or relocation;
3. down payment of deposit and/or initial month's rent;
4. short-term continuation of a housing voucher;
5. down payment for the purchase of a house;
6. housing counseling and homebuyer education for prospective homeowners; or
7. other transitional services determined in conjunction with the Department of Social Services and the Division of Administration.

B. These services meet the TANF goal to provide assistance to needy families so that children can be cared for in their own homes or the homes of relatives and the TANF goal to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage.

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

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

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

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

Gwendolyn Hamilton  
Secretary

0112#024

### **DECLARATION OF EMERGENCY**

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

#### **2001 Commercial King Mackerel 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 resolution of January 4, 2001, to close the 2001 commercial king mackerel season in Louisiana state waters when he is informed that the designated portion of the commercial king mackerel quota for the Gulf of Mexico has been filled, or was projected to be filled, the Secretary hereby declares:

Effective 12 noon, November 19, 2001, the commercial fishery for king mackerel in Louisiana waters will close and remain closed through June 30, 2002. Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fishermen. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel. Effective with this closure, no person shall possess king mackerel in excess of a daily bag limit. The prohibition on sale/purchase of king mackerel during the closure does not apply to king mackerel that were harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor provided appropriate records in accordance with R.S. 56:306.5 and 56:306.6 are properly maintained.

The Secretary has been notified by National Marine Fisheries Service that the commercial king mackerel season in Federal waters of the Gulf of Mexico will close at 12 noon November 19, 2001. Closing the season in State waters is necessary to provide effective rules and efficient enforcement for the fishery and to prevent overfishing of this species in the long term.

James H. Jenkins, Jr.  
Secretary

0112#009

## **DECLARATION OF EMERGENCY**

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

#### **Red Snapper Commercial Season**

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 resolution of January 4, 2001 to change the opening dates and closing dates for the commercial red snapper season in Louisiana state waters when he is informed by the Regional Administrator of the National Marine Fisheries Service (NMFS) that the season dates for the commercial harvest of red snapper in the federal waters of the Gulf of Mexico have been modified, and that the Regional Administrator of NMFS requests that the seasons be modified in Louisiana state waters, the Secretary hereby declares:

The season for the commercial fishery for red snapper in Louisiana state waters will re-open at 12 noon, December 1, 2001. The commercial fishery for red snapper in Louisiana state waters will close at 12 noon, December 3, 2001, when the remainder of the 2001 commercial quota is projected to be reached. Effective 12 noon, December 3, 2001, the

commercial fishery for red snapper in Louisiana waters will remain closed until 12 noon, February 1, 2002. Nothing herein shall preclude the legal harvest of red snapper by legally licensed recreational fishermen once the recreational season opens. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell red snapper. Effective with this closure, no person shall possess red snapper in excess of a daily bag limit, which may only be in possession during the open recreational season as described above. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing red snapper taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The Secretary has been notified by NMFS that the 2001 fall commercial season for red snapper in federal waters will re-open on December 1, 2001 and close on December 3, 2001 when the quota is projected to be met. Re-opening the season in state waters is necessary to provide effective rules and efficient enforcement for the fishery. All other aspects of the Declaration of Emergency adopted by the Commission on January 4, 2001 regarding the commercial harvest of red snapper remain in effect.

James H. Jenkins, Jr.  
Secretary

0112#025

# Rules

## RULE

### Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

#### Contracts for Termite Control Work (LAC 7:XXV.119)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission amends regulations to include both native subterranean (reticulitermes) and Formosan (coptotermes) termites under the protection of termite contracts issued by pest control operators.

The current state standard termite contracts for post-construction (liquid ground and bait treatments) covers only the native subterranean termite. However, the termiticides and the specifications for their applications are the same for both native subterranean and Formosan termites. Allowing pest control operators to continue to exclude Formosan termites from contracts for termite control work will provide neither the pest control operator nor the customers with any significant economic benefit.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXV. Structural Pest Control

##### Chapter 1. Structural Pest Control Commission

##### §119. Contracts for Termite Control Work

A. The licensee must enter into a written agreement for termite work with the property owner employing him, which agreement must:

1. be in a form provided or approved by the commission;
2. guarantee performance for a period of not less than one year after the treatment is made;
3. guarantee treatment of the property in accordance with minimum specifications for termite control work set forth in §141 hereof; and
4. provide for at least one inspection of the property prior to expiration of the agreement;
5. each contract must include an inspection diagram.
6. Contracts shall provide for the treatment of all subterranean termites.

B. Each contract for termite control work shall cover only one unit or one individual property, provided that the contract may include a garage appurtenant to the unit or individual property.

C. Contracts for spot termite treatments must guarantee the area treated for a period of one year.

D. The licensee must report to the commission, no later than the tenth day of each month, each contract for termite work that he has entered into and performed during the previous month. If no contracts were entered into or performed during the previous month, the licensee must report this fact to the commission no later than the tenth of each month.

E. The licensee shall pay a \$5 fee for each standard contract reported under §119.D above when the required monthly report is filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and R.S. 3:3370.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 27:2084 (December 2001).

Bob Odom  
Commissioner

0112#077

## RULE

### Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

#### Registration of Livestock Pharmaceuticals (LAC 7:XXIII.Chapter 1)

The Department of Agriculture and Forestry, Office of the Commissioner, has amended regulations governing the registration of pharmaceuticals administered to livestock in accordance with R.S. 3:3(B), R.S. 3:3203(A) and the Administrative Procedure Act.

The Louisiana Legislature, by Act 33 of the 2000 Regular Session, enacted R.S. 47:301(16)(f) to remove pharmaceuticals administered to livestock from the definition of "tangible personal property." The purpose of the legislation is to exclude pharmaceuticals administered to livestock from sales and use taxes in Louisiana. In Act 33, the legislature required such pharmaceuticals to be registered with the Louisiana Department of Agriculture and Forestry. These regulations are intended to provide for the registration of such pharmaceuticals.

These rules comply with and are enabled by R.S. 3:3(B) and R.S. 3:3203(A).

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXIII. Pesticide

##### Chapter 1. Advisory Commission on Pesticides

##### Subchapter A. Authority

##### §101. Authority

A. Under the authority of the Louisiana Pesticide Law, R.S. 3:3201, et seq., and in accordance with the provisions in R.S. 49:950, et seq., the Commissioner of Agriculture and Forestry adopts the following regulations.

B. The Commissioner of Agriculture and Forestry, in accordance with R.S. 3:3203(E) has determined that pharmaceuticals administered to livestock used for agriculture purposes are pesticides. Pharmaceuticals administered to livestock used for agricultural purposes shall be registered with the department in accordance with the Louisiana Pesticide Law and the rules and regulations found in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 27:2084 (December 2001).

### Subchapter B. Definitions

#### §103. Definitions

\* \* \*

*Livestock Used for Agricultural Purposes* Any animal bred, kept, maintained, raised or used for profit or for the purpose of selling or otherwise producing crops, animals, or plant or animal products for market. This definition includes cattle, buffalo, bison, oxen and other bovine; horses, mules, donkeys, and other equine; sheep; goats; swine; domestic rabbits; fish, pet turtles and other animals identified with aquaculture which are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites and other farm-raised exotic animals; chickens, turkeys and other poultry; any animals placed under the jurisdiction of the commissioner or the department; and any hybrid, mixture or mutation of any type of animal if used for an agricultural purpose. However, dogs and cats shall not be considered livestock under these regulations.

*Pharmaceuticals* Any substance intended for use in the diagnosis, cure, mitigation, treatment or prevention of plant or animal pests, diseases, viruses, bacteria or other microorganisms in or on livestock and any substance other than food intended to affect the structure or any function of the body of any livestock.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3202 and 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 27:2085 (December 2001).

### Subchapter D. Registration of Pesticides

#### §111. Registration Required

No pesticide, including pharmaceuticals administered to livestock used for agricultural purposes, shall be sold, offered for sale, or distributed in this state without being registered by the manufacturer annually with the department. This registration shall expire on December 31 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 27:2085 (December 2001).

#### §115. Standard Registrations

A. - 1.c.i. ...

ii. the percentage of the active ingredients in the pesticide unless the proportion of the active ingredients are expressed in international units, or some other form of scientifically recognized and accepted measurement; in which case the proportion of active ingredients may be reported in that manner;

iii. the percentage of the inert ingredients in the pesticide unless the proportion of the active ingredients in the pesticide are expressed in international units, or some other form of scientifically recognized and accepted

measurement; in which case the proportion of inert ingredients may be reported in that manner;

iv. - d. ...

e. the method for laboratory analysis if the pesticide is a pharmaceutical administered to livestock used for agricultural purposes;

f. such other information as the commissioner may require.

A.2. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 23:192 (February 1997), LR 23:853 (July 1997), LR 27:2085 (December 2001).

#### §117. Special Registrations

A. - 3.c.iii. ...

d. Pharmaceuticals in Custom Blended Feed(s) Exemption. It shall not be necessary to register a feed as a pesticide that contains a pharmaceutical ingredient if the following conditions are met.

i. The feed blend is prepared to the order of the customer and is not held in inventory by the blender.

ii. The blend is to be used on the customer's property or fed to the customer's livestock.

iii. The pharmaceutical(s) used in the blend bears end-use labeling directions that do not prohibit use of the product in such a blend.

iv. The blend is prepared from a pharmaceutical registered with the department.

v. The blend is delivered to the end-user along with a copy of the end-use labeling of each pharmaceutical used in the blend and a statement specifying the composition of mixture.

e. Commercial feeds, as defined in R. S. 3: 1891(1), which are manufactured or distributed as feed to livestock and which contain pharmaceutical ingredients are hereby declared to be pharmaceuticals administered to livestock. Each such commercial feed shall be registered with the department in accordance with the provisions of these regulations except for the following commercial feeds.

i. Commercial feeds registered with the department in accordance with the requirements of the Commercial Feeds Law found at Chapter 14 of Title 3 of the Louisiana Revised Statutes of 1950, (R. S. 3: 1891-1907) as long as those registration and inspection fees and tonnage reports are current.

ii. Commercial feeds that have been manufactured or produced by any person for the purpose of feeding his own livestock.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), amended LR 27:2085 (December 2001).

Bob Odom  
Commissioner

0112#078

**RULE**

**Department of Education  
Board of Elementary and Secondary Education**

Bulletin 741C Louisiana Handbook for School Administrators  
Policy for Louisiana's Public Education Accountability System (LAC 28:1.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, referenced in LAC 28:1.901, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components. The changes more clearly explain and refine the existing policy as it pertains to the calculation of two State averages to be used for performance labels and corrective actions, the phase-in of CRT data for combination schools, the averaging of scores for 9-12 schools to determine if a school has met its growth target in 2003, the calculation of an adjusted growth target for 9-12 schools for cycle 1, the exclusion of out-of-level testing data in the SPS calculation, the inclusion of an audit/investigation process for schools showing statistically anomalous growth in one or more indicator used in the calculation of its SPS, and the process for schools entering/progressing into corrective actions.

**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**

Bulletin 741  
\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6.A(10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 26:635 (April 2000), LR 26:1260 (June, 2000), LR 26:1260-1261 (June 2000), LR 27:2086 (December 2001).

The Louisiana School And District Accountability System  
School Performance Scores

**2.006.03**

A School Performance Score (SPS) shall be calculated for each school. This score shall range from 0-100 and beyond, with a score of 100 indicating a school has reached the 10-Year Goal and a score of 150 indicating a school has reached the 20-Year Goal. The lowest score that a given school can receive for each individual indicator index and/or for the SPS as a whole is "0."

For the first accountability cycle, the baseline SPS shall be calculated using CRT and NRT scores from spring 1999 and the prior year's attendance and dropout data. The Growth SPS shall be calculated using CRT and NRT scores from spring 2001 and the prior year's attendance and dropout data.

During the fall of 2001 for K-8 schools, each school shall receive two School Performance Scores as follows:

- a Growth SPS will be calculated using 2001 English language arts/Math LEAP 21 test scores, 2001 Iowa test scores, and 2000 attendance and dropout data.
- a new Baseline SPS will be calculated using the average of the 1999-2000 and 2000-2001 English language arts/Math/Science/Social Studies LEAP 21 test scores, the average of the 1999-2000 and 2000-2001 Iowa test scores and the average of the 1999 and 2000 attendance and dropout data.

The Growth SPS shall be used to determine Growth Labels and to calculate rewards. The new Baseline shall be used to determine Performance Labels and to calculate the next cycle's Growth Target. The higher SPS (Growth or Baseline) shall be used to determine movement in Corrective Actions. (See Standard 2.006.09)

Beginning the second cycle, every year of student data shall be used as part of a school's SPS. Calculations of the SPS shall use the following:

- an average of the most recent two year's test data, and
- attendance and dropout rates from the two years prior to the last year of test data used.

For schools entering accountability after 1999, one year's data shall be used for schools formed in mid-cycle years and two year's data for other schools. Only spring administration test data shall be used in the School Performance Score.

A baseline School Performance Score shall be calculated in Spring 1999 for Grades K-8.

During the summer of 1999 for K-8 schools, each school shall receive two School Performance Scores as follows:

- C a score for regular education students, including gifted, talented, speech or language impaired, and Section 504 students;
- C a score including regular education students and students with disabilities eligible to participate in the CRT and/or NRT tests.

For the purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools, the School Performance Score that includes only regular education students shall be used.

**Formula for Calculating an SPS [K-6]**

The SPS for a sample school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example,  
 $[(66.0 * 60\%) + (75.0 * 30\%) + (50.0 * 10\%)] = 67.1$

Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
Dropout	N/A	0%	0
			SPS = 67.1

**Criterion-Referenced Tests (CRT) Index Calculations [K-8]**

A school's CRT Index score equals the sum of the student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points in dicated.

Advanced =	200 points
Proficient =	150 points
Basic =	100 points
Approaching Basic =	50 points
Unsatisfactory =	0 points



**Formula for Calculating a CRT Index for a School [K-8]**

1. Calculate the total number of points by multiplying the number of students at each performance level times the points for those respective performance levels, for all content areas.
2. Divide by the total number of students eligible to be tested times the number of content area tests.
3. Zero shall be the lowest CRT index score reported for accountability calculations.

Option I students: those students failing the 8<sup>th</sup> grade LEAP 21 that have been:

- retained on the 8<sup>th</sup> grade campus;
- must retake all parts of the 8<sup>th</sup> Grade LEAP 21

If, during spring testing, a repeating fourth grade student or Option I 8<sup>th</sup> grade student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics, English language arts, science or social studies for which he/she received a score of Unsatisfactory the previous spring, the retaining school shall receive 50 incentive points per subject in its accountability index. A student may earn a maximum of 200 incentive points for his/her school. (No incentive points will be awarded for passing parts of tests in the summer school of the year they first failed in spring testing.)

**Transition Years [K-8]**

To accommodate the phase-in of the Social Studies and Science components of the CRT for Elementary and Secondary Accountability Cycles, the State Department of Education shall use following LEAP Test components when calculating the School Performance Scores (SPS) for K-8 :

Timelines/School Years			LEAP-CRT Index Components									
Cycle	Baseline SPS Data	Growth SPS Data	Grade									
			4				8					
			ELA	Math	Science	Social Studies	ELA	Math	Science	Social Studies		
1	1998-1999	2000-2001	✓	✓					✓	✓		
2	1999-2000 & 2000-2001	2001-2002 & 2002-2003	✓	✓	✓	✓			✓	✓	✓	✓
3	2001-2002 & 2002-2003	2003-2004 & 2004-2005	✓	✓	✓	✓			✓	✓	✓	✓

**Norm-Referenced Tests (NRT) Index Calculations [K-8]**

For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a school's NRT Index score.

**NRT Goals and Equivalent Standard Scores**

Composite Standard Scores Equivalent to Louisiana's 10- and 20-Year goals, by Grade Level \*

Grade					
Goals	Percentile Rank	3	5	6	7
10-Year Goal	55th	187	219	231	243
20-Year Goal	75th	199	236	251	266

**NRT Formulas Relating Student Standard Scores to NRT Index [K-8]**

Where the 10-year and 20-year goals are the 55th and 75th percentile ranks, respectively, and where SS = a student's standard score, then the index for that student is calculated as follows:

Grade 3:	Index 3 <sup>rd</sup> grade = (4.167 * SS) - 679.2 SS = (Index 3rd grade + 679.2)/4.167
Grade 5:	Index 5 <sup>th</sup> grade = (2.941 * SS) - 544.1 SS = (Index 5th grade + 544.1)/2.941
Grade 6:	Index 6 <sup>th</sup> grade = (2.500 * SS) - 477.5 SS = (Index 6th grade + 477.5)/2.500
Grade 7:	Index 7 <sup>th</sup> grade = (2.174*SS) - 428.3 SS= (Index 7th grade + 428.3)/2.174

**Formula for Calculating a School's NRT Index [K-8]**

1. Calculate the index for each student, using the grade-appropriate formula relating the Standard Score to NRT Index. (NOTE: For accountability purposes, a student not taking the test and not exempted will be assigned a zero NRT index.)
2. Sum the total number of NRT Index points for all grades in the school.
3. Divide the sum of the NRT Index points by the total number of students eligible to be tested plus the number of students not exempted.

Zero shall be the lowest NRT Index score reported for School Performance Score calculations.

**Attendance Index Calculations [K-8]**

An Attendance Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indexes shall be calculated using the prior two years' average attendance rates as compared to the State's goals.

Attendance Goals	10-Year Goal	20-Year Goal
Grades K-8	95%	98%

Attendance Index Formula  
Grades K-8

$$\text{Indicator (ATT K-8)} = (16.667 * \text{ATT}) - 1483.4$$

Where ATT is the attendance percentage, the Index Formula uses the definition of attendance established by the Louisiana Department of Education.

Lowest Attendance Index Score  
Zero shall be the lowest Attendance Index score reported for accountability calculations.

Lowest Dropout Index Score  
Zero shall be the lowest Dropout Index score reported for accountability calculations.

Dropout Index Calculations  
A Dropout Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indices shall be calculated using the prior two years' average dropout rates as compared to the State's goals.

School Performance Scores for 9-12  
A School Performance Score (SPS) shall be calculated for each high school. This score shall range from 0-100 and beyond, with a score of 100 indicating that a school has reached the 10-Year Goal and a score of 150 indicating that a school has reached the 20-Year Goal. The lowest score that a given high school can receive for each individual indicator index and/or for the SPS as a whole is "0."

Dropout Goals	10-Year Goal	20-Year Goal
Grades 7 & 8	4%	2%

Every year of student data shall be used as part of a high school's SPS. The school's initial SPS shall be calculated using the most recent year's NRT and CRT test data and the prior year's attendance and dropout rates. Subsequent calculations of the SPS shall use the most recent two years' test data, attendance and dropout rates from the two years prior to the last year of test data used.

The national definition of *dropout* shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

Dropout Index Formulas	
Non-Dropout Rate (NDO) = 100 - Dropout Rate (DO) (expressed as a percentage)	
Grades 7 & 8	Dropout Index (7-8) = Indicator (DO Gr 7-8) = (25 * NDO) - 2300.0 NDO = (Indicator DO Gr 7-8 + 2300.0) /25

Transition Years [9-12] To accommodate the phase-in of the grades 10 and 11 GEE 21 criterion-referenced tests and the graduation requirement, the Department shall use the following indicators:							
Timelines/School Years			Indicators Included				
Cycle	Baseline SPS Data	SPS Data	Grade 9 NRT	Grade 10 CRT	Grade 11 CRT	Attendance	Dropout
1	2000-01	2002-03 <sup>1</sup>	✓	✓		✓*	✓*
2	2001-02 & 2002-03 (avg.)	2003-04 & 2004-05 (avg.)	✓	✓	✓	✓*	✓*
3	2003-04 & 2004-05 (avg.)	2005-06 & 2006-07 (avg.)	✓	✓	✓	✓*	✓*

\*Indicates use of prior year data for these indexes.  
<sup>1</sup>The SPS at the beginning of cycle 2 shall be calculated using the average of the 2002 and 2003 NRT scores, the average of the 2002 and 2003 CRT scores, and the average of the 2001 and 2002 attendance and dropout data. The SPS for the beginning of cycle 2 shall be compared to the 2001 baseline SPS for determining growth.

Transition Years [Combination Schools] Combination Schools are schools that contain a 10 <sup>th</sup> and/or 11 <sup>th</sup> grade and that also contain a 4 <sup>th</sup> and/or 8 <sup>th</sup> grade. To accommodate the phase-in of Social Studies and Science components of the CRT tests for Secondary Accountability Cycles, the Department shall use the following LEAP Test components when calculating the SPS for combination schools.	
Cycle 1 Baseline SPS for Combination Schools	Cycle 2 SPS for Combination Schools
K-8 portion of school: 2 years averaged (2000 and 2001) of all CRT data	K-8 portion of school: 2 years averaged (2002 and 2003) of all CRT data.
9-12 portion of school: 1 year baseline data (2001) without grade 11 CRT	9-12 portion of school: 2 years averaged (2002 and 2003) of all CRT data.

Formula for Calculating an SPS – Accountability Cycle 1 (2001) for 9-12 and Combination Schools.  
During the first accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is:  
SPS = (.60 \* Grade 10 CRT Adjusted Achievement Index) + (.30 \* NRT Adjusted Achievement Index) + (.05 \* Dropout Index) + (.05 Attendance Index)  
All intermediate results and the final result shall be rounded to the nearest tenth.  
The following is an example of how this calculation shall be made:  
[(.60 \* 66.0) + (.30 \* 75.0) + (.05 \* 50.0) + (.05 \* 87.5)] = 69.0.

Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			69.0

Formula for Calculating an SPS – Accountability Cycle 2 (2003 and beyond) for 9-12 and Combination Schools.  
During the second accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is:

$$\text{SPS} = (.30 * \text{Grade 10 CRT Adjusted Achievement Index}) + (.30 * \text{Grade 11 CRT Adjusted Achievement Index}) + (.30 * \text{NRT Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$$

In this example,  

$$[(.30 * 66.0) + (.30 * 60.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 67.2.$$

Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	30%	19.8
CRT—Grade 11	60.0	30%	18.0
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			67.2

#### Norm-Referenced Tests (NRT) Index Calculations [9-12]

For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a high school's NRT Index score.

#### NRT Goals and Equivalent Standard Scores for Grade 9

Goal	Percentile Rank	Grade 9 Composite Standard Score
10-Year Goal	55 <sup>th</sup>	263
20-Year Goal	75 <sup>th</sup>	287

#### NRT Formulas Relating Student Standard Scores to NRT Index [9-12]

If the 10-Year and 20-Year Goals are the 55<sup>th</sup> and 75<sup>th</sup> percentile ranks respectively and if the SS = a student's standard score, the index for a grade 9 student is calculated as follows:

$$\text{Index } 9^{\text{th}} \text{ grade} = (2.083 * \text{SS}) - 447.8$$

$$\text{SS} = (\text{Index } 9^{\text{th}} \text{ grade} + 447.8) / 2.083$$

Option II students: those students failing the 8<sup>th</sup> grade LEAP 21 that have been:

- retained and placed on the high school campus;
- must take the 9<sup>th</sup> grade NRT; and
- must retake only the part of the 8<sup>th</sup> grade LEAP 21 they originally failed (English language arts or mathematics).

If, during spring testing, a student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics or English language arts for which he/she received a score of Unsatisfactory the previous spring, the high school shall receive incentive points in its accountability index. For the 2000-2001 school year, a student may earn a maximum of 100 incentive points in his/her school's accountability index. Beginning cycle 2 (2001-2002), a student may earn a maximum of 50 incentive points for his/her school. (See High Stakes Testing Policy.)

Only with the exception of grade 8 Option II students, all Louisiana students in grades three through eleven will participate in only one of the following state assessments on an annual basis:

- LEAP 21 or,
- GEE 21 or,
- Iowa On-Level or,
- Iowa Out-of-Level or,
- Louisiana Alternate Assessment

#### Criterion-Referenced Tests (CRT) Index Calculations [9-12]

A high school's CRT Index score at each grade equals the sum of the eligible student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.

Advanced	200 points
Proficient	150 points
Basic	100 points
Approaching Basic	50 points
Unsatisfactory	0 points

#### Formula for Calculating the NRT and CRT Adjusted Achievement Index for a High School

- Sum the number of points earned by all students. For the NRT, there shall be one score for each student: the NRT Index calculated from the student's composite standard score. For the CRT, students shall be taking two tests at each grade.
- Divide by the total number of students eligible to be tested times the number of content area tests. This calculation provides the raw achievement index for the grade.
- Multiply the raw index by the product of the non-dropout rates from the previous year for that grade and for all the previous grades. (See Examples below.) This operation means that the grade 9 NRT Index shall be multiplied by the grade 9 non-dropout rate, the grade 10 CRT Index shall be multiplied by the grade 9 and grade 10 non-dropout rates, and the grade 11 CRT Index shall be multiplied by the grade 9, grade 10 and grade 11 non-dropout rates. This operation shall yield the Adjusted Achievement Index. Zero shall be the lowest NRT or CRT Adjusted Achievement Index score reported for accountability calculations.
- 

The formula for calculating the NRT and CRT Adjusted Achievement Index for a High School is:

$$\text{NRT Adjusted Achievement Index} = \text{Raw Achievement Index} * (1 - \text{DO Gr } 9 + .07)$$

$$\text{CRT Adjusted Achievement Index (Gr 10)} = \text{Raw Achievement Index} * (1 - \text{DO Gr } 9 + .07) * (1 - \text{DO Gr } 10 + .07)$$

$$\text{CRT Adjusted Achievement Index (Gr 11)} = \text{Raw Achievement Index} * (1 - \text{DO Gr } 9 + .07) * (1 - \text{DO Gr } 10 + .07) * (1 - \text{DO Gr } 11 + .07)$$

Example 1 – Grade 9:

- Before beginning grade 9, a class has 50 students; by the end of September, 45 remain in the class. The grade 9 dropout rate is  $(5/50) = .100$ .
- The number of points earned on the NRT is 5000.
- The raw achievement index is  $5000/45 = 111.1$ .
- The adjusted achievement index is  $111.1 * (1 - .100 + .07) = 107.8$ .

Example 2 – Grade 10:

- Another 5 students dropout before October of grade 10. The grade 10 dropout rate is  $5/45 = .111$ .
- The 40 students remaining in the class earn 10,000 points on the two CRT tests. The raw achievement index is  $10,000/(40 * 2) = 125.0$ .
- The adjusted achievement index is  $125.0 * (1 - .100 + .07) * (1 - .111 + .07) = 116.3$ .

<p>Attendance Index Calculations for Grades 9-12</p> <p>An Attendance Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indexes shall be calculated using the prior two years' average attendance rates as compared to the State's goals.</p>		
Attendance Goals		
	10-Year Goal	20-Year Goal
Grades 9-12	93%	96%
<p>Attendance Index Formula for Grades 9-12</p> <p>If the 10-Year and 20-Year Goals are 93% and 96% average attendance respectively and if the ATT = attendance percentage using the definition of attendance established by the Department of Education, the attendance index is calculated as follows:</p> <p style="padding-left: 40px;">Indicator (ATT 9-12) = (16.667 * ATT) – 1450.0.</p> <p>Example:</p> <ul style="list-style-type: none"> <li>▪ If the average attendance percentage is 94.3%, the Attendance Index would be (16.667 * 94.3) – 1450.0 = 121.7.</li> </ul> <p>Zero shall be the lowest Attendance Index score reported for accountability calculations.</p>		

<p>Dropout Index Calculations for Grades 9-12</p> <p>A Dropout Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indexes shall be calculated using the prior two years' average dropout rates as compared to the State's goals.</p>		
Dropout Goals		
	10-Year Goal	20-Year Goal
Grades 9-12	7%	3%
<p>Dropout Index Formula for Grades 9-12</p> <p style="padding-left: 40px;">Dropout Index = 187.5 – (12.5 X dropoutrate)</p> <p>Example:</p> <ul style="list-style-type: none"> <li>▪ If the dropout rate is 4.5%, the Dropout Index would be: 187.5 – (12.5 * 4.5) = 131.3.</li> </ul> <p>Zero shall be the lowest Dropout Index score reported for accountability calculations.</p>		

The national definition of *dropout* shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

**Growth Targets**

**2.006.05** Each school shall receive a Growth Target that represents the amount of progress it must make every two years to reach the State's 10- and 20-Year Goals.

In establishing each school's Growth Target, the SPS inclusive of students with disabilities shall be used as the baseline. (See Standard 2.006.18.) However, the percentage of students with disabilities varies significantly across schools and the rate of growth for such students, when compared to regular education students, may be different. Therefore, the proportion of students with disabilities eligible to participate in the CRT or NRT in each school will be a factor in determining the Growth Target for each school.

**Growth Targets [K-12]**

During the first ten years, the formula is the following:  

$$[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]$$
or 5 points, *whichever is greater* where

PropSE = the number of special education students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. For purposes of this calculation, gifted, talented, speech or language impaired, and 504 students shall not be counted as special education students, but shall be included in the calculations as regular education students.

PropRE = 1-PropSE. *PropRE* is the proportion of students not in special education.

PropLEP = the number of limited English proficient students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. A limited English proficient student shall be defined as an individual who has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or participate fully in our society and who:

- 1) was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant; or
- 2) is a Native American or Alaska Native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or
- 3) is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant.

SPS = School Performance Score  
N = Number of remaining accountability cycles in the 10-Year Goal period

The maximum amount of growth that a school shall be required to attain is 20 points. The minimum amount of growth required shall be 5 points.

During the second ten years, the formula is the following:  

$$[\text{PropRE} * (150 - \text{SPS})/N] + [\text{PropSE} * (150 - \text{SPS})/(N + 5)] + [\text{PropLEP} * ((150 - \text{SPS})/(N+5))]$$
or 5 points, *whichever is greater*.

For cycle 1 only (2003), the Louisiana Department of Education shall calculate a growth target for 9-12 schools using the following formula:  

$$.75 * [([\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))])]$$

For combination schools, the Louisiana Department of Education shall use 2 years of data (2002 and 2003) to determine if a school has met its growth target for cycle 1. Combination schools shall use the following formula to calculate a growth target:  

$$[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]$$
or 5 points, *whichever is greater*.

**Growth Targets for New or Reconfigured Schools**

Once a baseline for the new or reconfigured school has been established, a Growth Target shall be set based on the number of cycles remaining until 2009 (K-8) and 2011 (9-12), with a maximum Growth Target of 20 points.

For example, suppose an elementary school enters the Accountability System in 2003 and establishes a baseline SPS of 50 in 2005. Normally, the school's Growth Target would be  $(100 - 50)/2 = 25$ . Under this rule, the school's Growth Target shall be 20, the maximum.

**Growth Targets for Reconstituted Schools**

Until 2009 (for K8 schools) and 2011 (for 9-12 schools), the reconstituted school's Growth Target shall be equal to 100 minus the SPS divided by 5 minus the number of cycles since reconstitution.

For example, suppose a school is reconstituted in 2005 and has a SPS of 50 (based on previous year's data). The school's Growth Target for the first cycle after reconstitution shall be 10 points [(100-50)/5].

**Performance Labels**

**2.006.07** A Performance Label shall be given to a school that qualifies, in addition to the Growth Label.

For purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools and during the summer of 2001 for 9-12 schools, the SPS that includes only regular education students shall be used. Any school with an SPS of 30 or less, based on the test scores of regular education students only, shall be deemed an Academically Unacceptable School.

The Louisiana Department of Education shall calculate two state averages. A state average shall be calculated for K-8 schools and a state average shall be calculated for 9-12, K-12 and combination schools.

**Performance Labels**

\*A school with a SPS of 30.0 or below\* shall be labeled *Academically Unacceptable*. This school immediately enters Corrective Actions.

\*A school with a SPS of 30.1 - state average\* shall be labeled *Academically Below the State Average*.

\*A school with a SPS of state average\* - 99.9 shall be labeled *Academically Above the State Average*.

\* The state average is recalculated every growth cycle.

\*\*A school with a SPS of 100.0 - 124.9 shall be labeled a *School of Academic Achievement*.

\*\*A school with a SPS of 125.0 - 149.9 shall be labeled a *School of Academic Distinction*.

\*\*A school with a SPS of 150.0 or above shall be labeled a *School of Academic Excellence*.

\*\*During the first ten years, a school with these labels shall no longer be subject to Corrective Actions and shall not receive "negative" growth. (See Standard 2.006.06.) This school shall continue to meet or exceed its Growth Target to obtain a "positive" growth label, recognition, and possible rewards.

**Rewards/Recognition**

**2.006.08** A school shall receive recognition and monetary awards (as appropriated by the Legislature) when it meets or surpasses its Growth Target and when it shows growth in the performance of students who are classified as high poverty and special education students.

School personnel shall decide how any monetary awards shall be spent; however, possible monetary rewards shall not be used for salaries or stipends. Other forms of recognition shall also be provided for a school that meets or exceeds its Growth Target.

The SBESE shall establish an audit and investigation process for schools showing statistically anomalous growth in one or more indicators used in the calculation of its SPS. The audit and investigation shall be conducted by the Louisiana Department of Education, the local school system as provided by the SBESE or the legislative auditor as provided by law. The findings of the audit and investigation shall be reported to the SBESE, the local district and local school. If the findings verify erroneous or anomalous data, the SBESE shall have the authority to withhold rewards. The SBESE also shall require local school systems to repay any rewards a school received for which it was ineligible as determined by the audit and investigation findings.

**Corrective Actions**

**2.006.09** A school shall enter in Corrective Actions I if any of the following apply:

- A school has a SPS  $\leq$  30.0 points.
- A school has a SPS  $\geq$  30.1 and  $<$  the applicable State Average (See Standard 2.006.07), and a Growth Label of Minimal Academic Growth, No Growth, or School in Decline.
- A school has a SPS  $<$  100.0 and  $\geq$  the applicable State Average (See Standard 2.006.07), and a Growth Label of No Growth or School in Decline.

A school that enters Corrective Actions shall receive additional support and assistance, with the expectation that extensive efforts shall be made by students, parents, teachers, principals, administrators, and the school board to improve student achievement at the school. There shall be three levels of Corrective Actions.

All schools in Corrective Actions I shall provide pertinent information to the Louisiana Department of Education concerning steps they have taken to improve student performance in order to document activities related to Corrective Actions I and in light of recent proposed changes in federal programs. This information shall be required on an annual basis.

Requirements for Schools in Corrective Actions I

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. Those schools falling within the category of "Academically Unacceptable" and placed in Corrective Actions I shall be required to review and either revise or rewrite completely their plan, with the assistance of a District Assistance Team, and submit it to the Division of School Standards, Accountability, and Assistance. The plan shall contain the following essential research-based components:

- a. a statement of the school's beliefs, vision, and mission;
- b. a comprehensive needs assessment that shall include the following quantitative and qualitative data:
  - student academic performances on standardized achievement tests (both CRT and NRT) and performance/authentic assessment disaggregated by grade vs. content vs. exceptionality);
  - demographic indicators of the community and school to include socioeconomic factors;
  - school human and material resource summary, to include teacher demographic indicators and capital outlay factors;
  - interviews with stakeholders: principals, teachers, students, parents;
  - student and teacher focus groups;
  - questionnaires with stakeholders (principals, teachers, students, parents) measuring conceptual domains outlined in school effectiveness/reform research;
  - classroom observations;
- c. measurable objectives and benchmarks;
- d. effective research-based methods and strategies;
- e. parental and community involvement activities;
- f. professional development component aligned with assessed needs;
- g. external technical support and assistance;
- h. evaluation strategies;
- i. coordination of resources and analysis of school budget (possible redirection of funds);
- j. action plan with time lines and specific activities.

2. Assurance pages

Each school in Corrective Actions I shall be required to provide assurances that it worked with a District Assistance Team to develop its School Improvement Plan, and that the plan has the essential components listed above. Signatures of the team members shall also be required.

3. A quarterly Monitoring of the Implementation of the School Improvement Plan

District Assistance Teams shall assist schools in Corrective Actions I in monitoring the implementation of their School Improvement Plan. All schools in Corrective Actions I shall be required to submit to the Louisiana Department of Education a quarterly report on the implementation of their school improvement plan in paper and/or electronic format.

4. An Annual Evaluation of the Level of Implementation of the School Improvement Plan

This evaluation shall be required on an annual basis. The Louisiana Department of Education shall make every effort to see that the information is collected in a manner that shall be of assistance to the schools and that shall provide feedback to them as they strive to improve student achievement.

A school shall enter Corrective Actions Level II if all of the following apply:

- It was in Corrective Actions I the previous cycle, and
- Its Growth Label is Minimal Academic Growth, No Growth, or School in Decline, and
- Its Growth Target for the next cycle is  $\geq 15.0$  points.

Corrective Actions Level II: All schools in Corrective Actions II must adhere to the requirements of schools in Corrective Actions I; however, Corrective Actions II schools must submit to the Louisiana Department of Education a *Monthly Monitoring of the Implementation of the School Improvement Plan*.

Corrective Actions Level II: A highly trained Distinguished Educator (DE) shall be assigned to a school by the State. The DE shall work in an advisory capacity to help the school improve student performance. The DE shall make a public report to the school board of recommendations for school improvement. Districts shall then publicly respond to these recommendations. If a school is labeled as Academically Unacceptable, parents shall have the right to transfer their child to a higher performing public school. (See Transfer Policy Standard #2.006.11.)

A school shall enter Corrective Actions Level III if all of the following apply:

- It was in Corrective Actions Level II the previous cycle, and
- Its Growth Label is Minimal Academic Growth, No Growth, or School in Decline, and
- Its Growth Target for the next cycle is  $\geq 15.0$  points.

Corrective Actions Level III: The DE shall continue to serve the school in an advisory capacity. Parents shall have the right to transfer their child to a higher performing public school. (See Transfer Policy, Standard #2.006.11.) A district must develop a Reconstitution Plan for the school at the beginning of the first year in this level and submit the plan to the SBESE for approval. If a Corrective Actions Level III school has achieved at least 40% of its Growth Target or five points, whichever is greater, during its first year, then that school may proceed to a second year in Level III. If such minimum growth is not achieved during the first year of Level III, but if the SBESE has approved its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If the SBESE does not approve the Reconstitution Plan AND a given school does not meet the required minimum growth, the school shall lose its State approval and all State funds.

Any reconstituted School's SPS and Growth Target shall be recalculated utilizing data from the end of its previous year. The SBESE shall monitor the implementation of the Reconstitution Plan.

All schools that have a:

- SPS  $\geq 100.0$  are exempt from Corrective Actions during the first ten years.
  - SPS  $\geq 30.0$  that meet or exceed its Growth Target shall exit Corrective Actions.
  - SPS  $\geq 30.0$  shall enter/progress in Corrective Actions.
- All schools must enter/re-enter Corrective Actions at Level I.

For 2001 only, K-8 schools shall receive a Growth SPS and a New Baseline SPS. The higher of the two shall be used to determine movement in Corrective Actions. However, schools with a new Baseline SPS  $\geq 30.0$  shall remain/progress in Corrective Actions.

Corrective Actions Summary Chart

School Level Tasks	
Level I	
1)	Utilize the State's diagnostic process or another process meeting State approval to identify needs; and
2)	Work with District Assistance Team to develop/implement a consolidated improvement plan, including an integrated budget; the process must include a) opportunities for significant parent and community involvement, b) public hearings, and c) at least two-thirds teacher approval.
Level II	
1)	Work with advisory Distinguished Educator, teachers, parents, and others to implement revised School Improvement Plan; and
2)	Distinguished Educator works with principals to develop capacity for change.
Level III	
1)	Distinguished Educator continues to assist with improvement efforts and work with the advisory District Assistance Team and other district personnel to design that school's Reconstitution Plan or No State Approval/No State Funding.
2)	If Reconstitution Plan is approved by the SBESE: a) implement Reconstitution Plan, and b) utilize data from the end of the previous year to re-calculate school performance goals and Growth Targets.
3)	If Reconstitution Plan is not approved, no State approval/no State funding.

District Level Tasks	
Level I	
1)	Create District Assistance Teams to assist schools;
2)	Identify existing and additional assistance being provided by districts, such as funding, policy changes, and greater flexibility;
3)	Reassign or remove school personnel as necessary as allowed by law; and
4)	Ensure Academically Unacceptable schools receive at least their proportional share of applicable state, local, and federal funding
Level II	
1)	Continue to help schools through the use of District Assistance Teams;
2)	Hold public hearing and respond to Distinguished Educator's written recommendations;
3)	Response in writing submitted to SBESE by local boards no later than 45 days subsequent to receiving the Distinguished Educator's report. Failure to respond to these recommendations will result in the school receiving unapproved status and being ineligible to receive federal subgrantee assistance funds until such response is received;
4)	Reassign or remove personnel as necessary as allowed by law; and
5)	Authorize parents of students attending Academically Unacceptable Schools to send their children to other public schools

Level III	
1)	Continue to help schools through the use of District Assistance Teams;
2)	Authorize parents of students attending Academically Unacceptable Schools to send their children to other public schools;
3)	Design Reconstitution Plan; and
4)	At the end of year one, one of the following must occur: a) schools must make adequate growth of at least 40% of the Growth Target or five points, whichever is greater; b) the district shall develop Reconstitution Plan to be approved by the SBESE; and c) the SBESE shall grant non-school approval status.
Reconstitution or No State Approval/Funding	
1)	If Reconstitution Plan is approved by the SBESE, provide implementation support.
2)	If the Reconstitution Plan is not approved, no State approval/no State funding.

State Level Tasks	
Level I	
1)	Provide diagnostic process for schools;
2)	Provide training for District Assistance Teams;
3)	For some Academically Unacceptable Schools only, the SBESE shall assign advisory Distinguished Educators to schools; and
4)	Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans.
Level II	
1)	Assign advisory Distinguished Educator to schools; and
2)	Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans.
Level III	
1)	Assign advisory Distinguished Educator to schools for one additional year to assist in the development and design of the Reconstitution Plan;
2)	At end of Year 1, the SBESE shall approve or disapprove Reconstitution Plans. If the SBESE approves the Reconstitution Plan, the Distinguished Educator is assigned an additional year to support and assist with monitoring the implementation of the Reconstitution Plan for schools that fail to make adequate growth;
3)	If a school achieves the required amount of growth during its first year in Level III Corrective Action and proceeds to a second year in Level III, the Distinguished Educator will be assigned to the school for that additional year to support and assist the school in its continued improvements efforts; and
4)	Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans.
Reconstitution or No State Approval/No Funding	
1)	If Reconstitution Plan is approved by the SBESE, a) monitor implementation of reconstitution plan; and b) provide additional state improvement funds; and
2)	If Reconstitution Plan is not approved, no State approval/State funding.

**Inclusion of Students with Disabilities**

**2.006.18** All students, including those with disabilities, shall participate in Louisiana's new testing program. The scores of all students who are eligible to take the CRT and the NRT shall be included in the calculation of the SPS. Most students with disabilities shall take the CRT and the NRT with accommodations, if required by their Individualized Education Program (IEP). A small percentage of students with very significant disabilities, limited to 1.5 percent per grade level per school district, shall participate in an alternate assessment, as required by their IEP.

Local Education Agencies (LEAs) have the option to allow or disallow out-of-level testing. The LEA shall determine the percentage of students who can test out-of-level, not to exceed a total of 4 percent of students at any grade level per school district. This 4 percent includes those students participating in alternate assessment. The parent must agree with out-of-level assessment through written parental approval, via the IEP. There shall be an appeals method in place to make decisions on exceptions when the district's 4 percent cap has been exceeded.

A student participating in out-of-level testing must test three or more grade levels below in either English/Language Arts or Mathematics. If a student does not test three or more grade levels below in at least one of these subject areas, he/she will receive a "0" for that student's growth in the calculation of the school's SPS.

For students with disabilities who test out-of-level, Iowa (ITBS) standard scores from two consecutive years shall be compared in the following manner to determine student performance in calculating the SPS:

Less than 5 standard score points of progress	0 points (Unsatisfactory)
5-9 standard score points of progress	50 points (Approaching Basic)
10-14 standard score points of progress	100 points (Basic)
15-19 standard score points of progress	150 points (Proficient)
20 + standard score points of progress	200 points (Advanced)

**Appeals Process for Exceeding the Established Caps for Out-of-Level Alternate Assessment of Students with Disabilities**

- I. School districts that either
  - A) exceed a total of 4% but less than 5% of the total district population at any grade level participating in out-of-level testing and alternate assessment, and/or
  - B) exceed a total of 1.5% but less than 2% of the total district population at any grade level participating in alternate assessment
 must submit the following to the Department of Education (DOE) for review and approval:
  - 1) a justification documenting the reasons for exceeding the cap(s), and
  - 2) a corrective action plan to
    - increase participation in on-level assessment of the total district population at the grade level(s) where the cap was exceeded, and when applicable;
    - decrease participation in alternate assessment to a maximum of 1.5% of the total district population at the grade level(s) where the cap was exceeded.
- II. School districts that either
  - C) exceed a total of 5% or more of the total district population at any grade level participating in out-of-level testing and alternate assessment, and/or
  - D) exceed a total of 2% of the total district population at any grade level participating in alternate assessment
 must submit the following to the Department of Education for review and approval:
  - 3) a justification documenting the reasons for exceeding the cap(s), and
  - 4) a corrective action plan to
    - increase participation in on-level assessment of the total district population at the grade level(s) where the cap was exceeded, and when applicable;
    - decrease participation in alternate assessment to a maximum of 1.5% of the total district population at the grade level(s) where the cap was exceeded.

The school district will receive an onsite investigation by a Department of Education team; and following the investigation, the DOE team will meet with the school district's superintendent and appropriate staff to address the findings and revise, if necessary, the submitted corrective action plan.
- III. The DOE will report to the SBESE on each appeal.

Weegie Peabody  
Executive Director

0112#035



**RULE**

**Board of Elementary and Secondary Education**

Bulletin 741C Louisiana Handbook for School Administrators  
Policy for Louisiana's Public Education Accountability System (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, referenced in LAC 28:I.901, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components. The changes more clearly explain and refine existing policy as follows. The proposed policy provides the conceptual framework of Louisiana's District Accountability System, the proposed indicators and performance labels for district accountability.

**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**

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 26:635 (April 2000), LR 26:1260 (June 2000), LR 26:1260 (June 2000), LR 27:2095 (December 2001).

The Louisiana School and District Accountability System  
District Accountability

**1.007.00** Every school district shall participate in a district accountability system based on the performance of schools as approved by the Louisiana State Board of Elementary and Secondary Education (SBESE).

Indicators for District Accountability

**1.007.01** There shall be two statistics reported for each school district for District Accountability:

- a District Performance Score (DPS); and
- a District Responsibility Index (DRI).

District Performance Score (DPS)  
A District Performance Score (DPS) shall be the average of School Performance Scores (SPS) of all schools in a district.

District Responsibility Index (DRI)  
A District Responsibility Index (DRI) shall be the weighted average of six indicators<sup>1</sup> with each indicator to be expressed as an index. A score of 100 = good and a score of 150 = excellent.  
The proposed indicators include;  
The percentage of students who pass the summer retest of LEAP 21 after failing the previous spring;  
The increase in the Standard Scores (SS) on LEAP 21 from spring to summer for students who scored *Unsatisfactory* during the spring administration;  
The change in the failure rate from one year to the next;  
The change in School Performance Scores (SPS) for all schools;  
The percentage of a district's certified teachers that are assigned to its low-performing schools (below the appropriate state average) (See Standard 2.006.07.); and  
The total percentage of teachers in the district that are certified.  
Note: The weights assigned to each indicator will be announced at a later date.  
<sup>1</sup> Indicators for school finance and graduation rate of high school students may be phased into the calculation of the District Responsibility Index at a later date.

Performance Labels

**1.007.02** A district shall not receive a label for its District Performance Score. A label shall be reported for its District Responsibility Index.

District Responsibility Index	Label
130.0 or more	Excellent
110.0 – 129.9	Very Good
90.0 – 109.9	Good
70.0 – 89.9	Fair
50.0 – 69.9	Poor
0.0 – 49.9	Unsatisfactory

Corrective Actions

**1.007.03** The Louisiana Department of Education shall report district scores and labels on every school district. Consequences imposed on a district shall be based on its District Responsibility Index (DRI). Any district receiving a performance label of unsatisfactory for its DRI shall become subject to an operational audit. If a district scores unsatisfactory again within two years, the SBESE shall have the authority to act on the audit findings, including the withholding of funds to which the district might otherwise be entitled.

Weegie Peabody  
Executive Director

0112#036

## RULE

### Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School Personnel Add-On 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 has amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.

A teacher who currently holds a standard teaching certificate can add an endorsement for a certification area.

For add-on certification in academic areas that have been identified as a teaching focus in grades 4-8 or in grades 7-12, either of two routes can be used:

1. earning a passing score on the identified content specialty area exam of the PRAXIS, or
2. successfully completing the recommended 19 credit hours in the specific academic area.

Add-on certification in academic areas through the PRAXIS exams would be limited to those Grades 4-8 and Grades 7-12 academic certification areas for which a content specialty exam has been validated in Louisiana and for which a cutoff score has been established.

#### 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

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 26:459 (March 2000), LR 26:635 (April 2000), LR 26:638 (April 2000), LR 27:2096 (December 2001).

Add-on Certification Policy  
Academic Teaching Focus Areas  
Grades 4-8 and 7-12

A teacher must currently hold a standard teaching certificate in order to add an endorsement for a certification area.

Add-on certification in academic areas that have been identified as a teaching focus in grades 4-8 or in grades 7-12 can be granted through either:

1. earning a passing score on the identified content specialty area exam of the PRAXIS; or
2. successfully completing the recommended 19 credit hours in the specific academic area.

Immediate implementation of add-on certification in academic areas through the PRAXIS exams would be available only in those Grades 4-8 and Grades 7-12

academic certification areas for which a content specialty exam has been validated in Louisiana and for which a cutoff score has been established.

Weegie Peabody  
Executive Director

0112#037

## RULE

### Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School Personnel Proposed Types of Teaching Authorizations and Certifications (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A.

The new licensure structure embodies most of the licensing categories currently available in Louisiana, under new license titles and renewal guidelines. Non-certified personnel will now be limited to a total of three years in Louisiana schools before full licensure is required, except in the cases of what is currently the Emergency Permit and Temporary Employment Permit. Both of these categories of temporary licensure are subsumed under the title "Temporary Employment Permit," and conditions for issuance remain the same.

The new Practitioner Teacher License is an addition to the current temporary licenses available in Louisiana and applies to individuals who pursue alternate certification through the fast-track Practitioner Teacher Program. The Out-of-State Provisional Certificate changes from a one-year to a three-year license, extending the amount of time that out-of-state certified teachers can teach in Louisiana while meeting all requirements for full Louisiana licensure.

In the new licensure structure, the current standard certificates labeled "Type C," "Type B," and "Type A" change to "Level 1," "Level 2," and "Level 3" certificates, to mirror licensure terminology in other states. The current Type C initial certificate may be extended every three years, whereas the proposed Level 1 certificate is non-renewable. While the current Types B and A certificates are lifetime certificates for continuous service, the new Levels 2 and 3 certificates must be renewed every five years. Required for renewal are 150 clock hours of professional development. Requirements for reinstatement of a lapsed Level 2 or 3 certificate remain the same as for a lapsed Type B or A certificate. If one of these certificates lapses for disuse or for failure to complete the required professional development hours, the individual is required to earn six semester hours of credit in order to reinstate the certificate.

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**Part I. Board of Elementary and Secondary Education  
Chapter 9. Bulletins, Regulations, and State Plans  
Subchapter A. Bulletins and Regulations**

**Types of Teaching Authorizations and Certifications**

<b>Non-Standard Temporary Authorizations to Teach</b>			
<b>Temporary Authority to Teach</b>	<b>Districts may recommend that teachers be given one-year temporary authorizations to teach according to the stipulated conditions. Districts must provide a signed affidavit by local superintendent that the position could not be filled by a certified teacher.</b>	<b>Conditions</b>	<b>Requirements To Renew Temporary Authorization to Teach and/or Move to Another Certification Level</b>
<p>(A teacher may hold a one-year Temporary Authorization to Teach for a maximum of three years while pursuing a specific certification area. He/she may not be issued another Temporary Certification at the end of the three years for the same certification unless the Louisiana Department of Education designates the certification area as one that requires extensive hours for completion.)</p>		a. Individual who graduates from teacher preparation program but does not pass PRAXIS	Teacher must prepare for the PRAXIS and take the necessary examinations at least twice a year.
		b. Individual who holds a minimum of a baccalaureate degree from a regionally - accredited institution and who applies for admission to a Practitioner Teacher Program but does not pass the PPST or the content specialty examination of the PRAXIS required for admission to the program.	Teacher must take a minimum of six credit hours per year in the subject area(s) that they are attempting to pass on the PRAXIS; candidate must reapply for admission to a Practitioner Teacher Program.
		c. Individual who holds a minimum of a baccalaureate degree from a regionally - accredited institution and who is hired after the start of the Practitioner Teacher Program	Teacher must apply for admission to a Practitioner Teacher Program and pass the appropriate PRAXIS examinations required for admission to the program.
<b>Practitioner Teacher License</b>	The District and the Practitioner Teacher Program provider must identify the individual as a practitioner teacher. One-year license that can be held a maximum of three years, renewable annually.	a. Teacher must be admitted to and enrolled in a State-approved Practitioner Teacher Program, which necessitates meeting all Practitioner Teacher Program requirements, including baccalaureate degree, stipulated GPA, and passing scores on the PRAXIS PPST and content area exam.	A practitioner teacher must remain enrolled in the Practitioner Teacher Program and fulfill all coursework, teaching assignments, and prescribed activities as identified by the program provider. Program requirements must be completed within the three-year maximum that license can be held. A practitioner teacher may complete all requirements of the practitioner program in fewer than three years. Once a practitioner teacher completes ALL requirements of the Practitioner Teacher Program, he may apply for a Level I Professional Certificate.
<b>Out-of-Field Authorization to Teach</b>	District submits application to LDE; renewable annually for maximum of three years. Superintendent of employing district must provide a signed statement that certifies that "there is no regularly certified, competent and suitable person available for that position" and that the applicant is the best qualified person available for the position.	a. Individual holds a Louisiana teaching certificate, but is teaching outside of the certified area.	Teacher must obtain a prescription/outline of course work required for add-on certification in the area of teaching assignment. Teacher must take a minimum of six credit hours per year of courses that lead toward certification in the area in which he/she is teaching. The other option for a teacher teaching out-of-field would be for the teacher to take and pass the required PRAXIS content specialty examination for the specific 7-12 academic certification area. District must support teacher's efforts in this area.
<b>Temporary Employment Permit</b>	Under condition (a) the district submits application to LDE; renewable annually. Under condition (b) the Individual submits application to LDE; renewable annually.	a. Individual meets all certification requirements, with the exception of passing all portions of the NTE examination, but scores within ten percent of the composite score required for passage of all exams. (Currently classified as EP)	Superintendent and President of the school board to which the individual has applied for employment must submit a signed affidavit to the LDE stipulating that there is no other applicant who has met all of the certification requirements available for employment for a specific teaching position. Such permit shall be in effect for not more than one year, but may be renewed. Such renewal of the permit shall be accomplished in the same manner as the granting of the original permit. The granting of such emergency teaching permit shall not waive the requirement that the person successfully complete the exam. While employed on an emergency teaching permit, employment period does not count toward tenure.

		b. Individual meets all certification requirements, with the exception of passing one of the components of the PRAXIS, but has an aggregate score equal to or above the total required on all tests. (Currently classified as TEP)	Temporary Employment Permits are issued at the request of individuals. All application materials required for issuance of a regular certificate must be submitted to LDE with the application for issuance of a TEP. An individual can be re-issued a permit three times only if evidence is presented that the required test has been retaken within one year from the date the permit was last issued. Beginning with the fifth year, additional documentation must be submitted by the employing district.
<b>Standard Teaching Certifications</b>			
<b>Out of State Provisional Certificate</b>	Individual submits application to LDE; valid for three years, non-renewable.	a. A teacher certified in another state who meets all requirements for a Louisiana certificate, except for the PRAXIS examinations.	Teacher must take and pass the appropriate PRAXIS examinations -or- Teacher provides evidence of at least four years of successful teaching experience in another state, completes one year of employment as a teacher in Louisiana public school systems, secures recommendation of the local superintendent of the employing school system for continued employment.
<b>Professional Level Certificates</b> (effective for all new certificates issued after July 1, 2002)			
<b>Level 1 Professional Certificate</b>	Teachers must graduate from a State-approved teacher preparation program (traditional or alternative path), pass PRAXIS, and be recommended by a university to receive a Level 1 Professional Certificate.  -or- <b>Teacher must complete a State-approved Practitioner Teacher Program, pass PRAXIS, and be recommended by the Practitioner Teacher Program provider to receive a Level 1 Professional Certificate.</b>  -or- Teacher must meet the requirements of an out-of-state certified teacher.		A teacher may hold a Level 1 certificate for a total of three years in his/her career.
<b>Level 2 Professional Certificate</b>	Teachers with a Level 1 Professional Certificate must pass the Louisiana Assistance and Assessment Program and teach for three years to receive a Level 2 Professional Certificate.		Teachers must complete 150 clock hours of professional development over a five-year time period in order to have a Level 2 Professional License renewed.
<b>Level 3 Professional Certificate</b>	Teachers with a Level 1 or Level 2 Certificate are eligible for a Level 3 Certificate if they complete a Masters Degree, teach for five years, and pass the Louisiana Assistance and Assessment Program.		Teachers must complete 150 clock hours of professional development over a five-year time period in order to have a Level 3 Professional License renewed.
<b>Standard Teaching Certificates</b> (issued prior to July 1, 2002)			
<b>Type C Certificate</b>	Type C certificates will not be issued after July 1, 2002.		
<b>Type B Certificate</b>	Candidates currently holding Type A or Type B certificates will continue to hold these certificates, which are valid for life, provided the holder does not allow any period of five or more consecutive 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.		
<b>Type A Certificate</b>			
<b>Process for Renewing Lapsed Professional Certificates</b>			
<p><b>Type C, B, and A Certificates</b> Type B and Type A certificates will lapse for disuse if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed teacher for at least one semester (90 consecutive days). Reinstatement of a lapsed certificate shall be made only on evidence that the holder has earned six semester hours of resident, extension, or correspondence credit in courses approved by the Division of Teacher Standards, Assessment, and Certification or a dean of a Louisiana college of education. The six semester credit hours of extension must be earned during the five-year period immediately preceding reinstatement. A lapsed Type C certificate may be renewed for an additional three years, subject to the approval of the Division of Teacher Standards, Assessment, and Certification or upon the presentation of six semester hours of credit directly related to the area(s) of certification. Such credit hours shall be resident, extension, or correspondence credit in courses approved by the Division of Teacher Standards, Assessment, and Certification or a dean of a Louisiana college of education. However, if the holder of a Type C certificate has not been employed regularly as a teacher for at least one semester during a period of five years, his certificate can be reinstated for three years only upon the presentation of the six semester hours of credit as described previously in the paragraph.</p> <p><b>Level 2 and 3 Certificates</b> Level 2 and Level 3 professional certificates will lapse (a) for disuse if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed teacher for at least one semester [90 consecutive days], or (b) if the holder fails to complete the required number of professional development hours during his employ. Reinstatement of a lapsed certificate shall be made only on evidence that the holder has earned six semester hours of resident, extension, or correspondence credit in courses approved by the Division of Teacher Standards, Assessment, and Certification or a dean of a Louisiana college of education. The six semester credit hours of extension must be earned during the five-year period immediately preceding reinstatement.</p>			

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 26:459 (March 2000); LR 26:635-638 (April 2000); LR 26:638-639 (April 2000), LR 27:2097 (December 2001).

Weegie Peabody  
Executive Director

0112#038

## RULE

### Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for State Certification of School Personnel Standards for Educational Interpreters and/or Transliterators (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The proposed standards provide for two new ancillary certificates: an Ancillary Provisional Certificate for Educational Interpreter/Transliterators and an Ancillary Qualified Certificate for Educational Interpreter/Transliterators. The Ancillary Provisional Certificate is for newly hired individuals. It is valid for one year, renewable once, and will be issued to persons who met a skilled based criteria. The Ancillary Qualified Certificate will have endorsement areas of Elementary and/or Secondary indicating competency in one of the following modes of sign language systems: ASL, MCE, SEEII or Cued Speech. These standards will impact any newly hired individual who functions in the capacity of an educational interpreter/transliterators for students who are deaf or hard-of-hearing. The standards also provide a measure to be used for hiring individuals. Continuing Education Units, included in the standards, are required.

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#### Subchapter A. Bulletins and Regulations

#### §903. Teacher Certification Standards and Regulations

##### A. Bulletin 746

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Standards for Educational Interpreters and/or Transliterators. Educational interpreters/transliterators are individuals who facilitate communication within an instructional environment via an enhanced visual and/or tactile mode between and among deaf/hard of hearing and hearing individuals in situations in which those individuals are unable to communicate with one another using a speech and hearing mode. (*Bulletin 1706, Regulations for Implementations of the Children with Exceptionalities Act*). Each educational interpreter and/or transliterator qualifying under this plan shall meet conditions as outlined in this document and have at least a standard high school diploma or a General Equivalency Diploma (GED).

#### Ancillary Provisional Certificate

This certificate is valid for one year, renewable once, and will be issued to persons who meet the following criteria for certification as an educational interpreter or transliterator:

1. completed an accredited interpreter preparation program with at least a certificate of completion, or higher; or
2. certified as a cued speech transliterator certification from a national or state recognized organization or certifying body; or

3. certified as a sign language interpreter/transliterators by a national or state recognized organization or certifying body; or

4. possess advanced level or higher as measured by the Sign Language Proficiency Interview (SLPI) or Sign Communication Proficiency Interview (SCPI); or possess Mini-Proficient level as measured on the Basic Cued Speech Proficiency Rating Test (BCSPR c1983, Beaupre); or

5. possess specified level or higher as measured on the Pre-Hiring Assessment of the Educational Interpreter Performance Assessment (EIPA).

#### Grandfather Permit

1. All individuals who are providing interpreting/transliterating services in an educational setting at the time of implementation shall be granted a permit by the Division of Special Populations upon recommendation of the employing authority.

2. This permit shall be valid as long as the individual maintains continuous employment at the time of implementation of these standards.

#### Qualified Ancillary Certificate

This certificate is valid for five years, renewable, and will be issued to persons who meet the criteria for certification as an educational interpreter or transliterator. The criteria for certification are listed below:

1. candidate who satisfies conditions for ancillary provisional certificate and meets the criteria for this certificate; or

2. candidate who possesses a grandfather permit and
  - a. shows documentation of professional development of at least 20 hours;

- b. passes the standardized video tape version of the Educational Interpreter Performance Assessment at a level of 3.0; or

- c. passes the Basic Cued Speech Proficiency Rating Test at a level of Proficient.

#### Renewal Guidelines for Ancillary Qualified Certificate

1. A qualified ancillary certificate may be renewed every five years if the applicant satisfactorily completes 6 semester credits or the equivalent of continuing professional education (90 contact hours) during the 5 years immediately preceding his/her application.

2. The 6 semester credits or 90 equivalent clock hours shall be directly and substantively related to one or more of the permits or certificates held by the applicant or to the applicant's professional competency.

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 in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 26:459 (March 2000); LR 26:635-638 (April 2000); LR 26:638-639 (April 2000), LR 27:2099 (December 2001).

Weegie Peabody  
Executive Director

0112#039

## RULE

### Board of Elementary and Secondary Education

Bulletin 1196C Louisiana Food and Nutrition Programs,  
Policies of Operation (LAC 28:XLIX. Chapters 1 - 35)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved revision of Bulletin 1196C Louisiana Food and Nutrition Programs, Policies of Operation. This bulletin is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. The revision incorporates all federal and state policy changes made since 1995 which have already been implemented by the School Food Authorities.

#### Title 28 EDUCATION

#### Part XLIX. Bulletin 1196C School Food Service Standards and Regulations

#### Chapter 1. Administration

#### §101. Responsibility

A. The responsibility for the administration, operation, and supervision of Child Nutrition Programs (CNP) is vested in the educational authorities that are responsible for all other phases of the school program. A CNP must be well planned, organized, and administered on national, state, and local levels if it is to function as an integral part of the total school program. It is important to operate an efficient, high quality food service unit that meets the nutritional needs of children and provides an educational activity center for the school and community. The goals of the CNP will be met when these principles are applied by those in authority. The responsibilities of administrators are discussed below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2100 (December 2001).

#### §103. National Level

A. Child Nutrition Programs are administered by the Food and Nutrition Service (FNS) of the United States Department of Agriculture (USDA). The USDA is authorized to issue regulations for the operation of the general cash-for-food assistance phase of the National School Food Service Programs pursuant to the authority contained in the National School Lunch Act and the Child Nutrition Act of 1966, as amended. After a decision to receive funds apportioned to the State by the FNS has been made, the Louisiana State Department of Education (LDOE) enters into a written agreement with the FNS for the administration of the CNPs in the state in accordance with provisions of the agreement. The FNS periodically issues regulations, reviews the programs within the state to determine compliance with the Agreement, provides technical assistance through its personnel and publications, and performs audits of the State Agency records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2100 (December 2001).

#### §105. State Level

A. Administration of the program is directed by the State Board of Elementary and Secondary Education (SBESE) which, under State law, may enter into agreements with the USDA to receive Federal funds for program operations, to prescribe regulations, and to establish policies for operation of the programs in accordance with Federal and State laws. Regulations and policies established by the SBESE are administered by the State Superintendent of Education, assisted by the Division of Nutrition Assistance (DNA) staff. This staff, which exercises leadership in all school food service matters, is responsible at the State level for administration and program supervision, including instructional and advisory services to schools and other supervisory assistance, to assure adequacy of program operations. Technical assistance visits or reviews shall be made each fiscal year to determine whether programs are being operated in compliance with Federal and State regulations and to offer assistance where needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2100 (December 2001).

#### §107. Local Level

A. Public, Independent Public and Nonpublic School Sponsor

1. Child Nutrition Programs in public schools are under the general supervision of the local school boards; independent public (Charter Schools), nonpublic schools, and Residential Child Care Institutions (RCCIs) are under the supervision of legal governing bodies or sponsors. Each parish or city superintendent or the sponsor's designated representative is administratively responsible for the organization, administration, and leadership of CNPs under his jurisdiction. He/she may delegate this authority to a school food service staff.

B. School Food Service Director and/or Supervisor

1. This person is responsible to the superintendent or the sponsor's representative. As a member of the administrative staff, the director and/or supervisor has overall responsibility for the CNP. This individual shall act as advisor for the other staff members, school principals and faculties, food service managers, students and parents in developing, administering and supervising the programs. It is his/her responsibility to exercise guidance and leadership while maintaining necessary controls over accounting and reporting, personnel, facilities and equipment. Each school/site shall be monitored by a director/supervisor in accordance with Federal and State regulations. (Refer to Forms and Guidance materials.) The significance of improved food habits and educational experiences makes it imperative that a CNP be based upon professional concepts. Each school system shall employ a certified supervisor or director. (Refer to §517. B.4.c.)

C. Principal

1. The CNP is an integral part of the total school. It is the principal's responsibility to administer the affairs of all school programs in compliance with local, State and Federal Regulations and policies, and to promote educational experiences. Direct involvement varies greatly from school system to school system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2100 (December 2001).

### **§109. Requirements for Participation**

A. Any public, independent public, or nonpublic school of high school grades or under recognized by the SBESE is eligible to participate in the CNPs administered by LDOE, provided that requirements set forth in the Agreement with the local school board, independent public school sponsor, or nonpublic school sponsor are met. In addition, some organizations that do not clearly meet the definition of "school" may be eligible to participate.

B. Child Nutrition Programs include the National School Lunch Program (NSLP), School Breakfast Program (SBP), Summer Food Service Program (SFSP), Child and Adult Care Food Program (CACFP), and Special Milk Program. After school snacks are included in the NSLP and the At-Risk Component of the CACFP.

C. Recognized Schools/Institutions/RCCIs

1. A recognized school is a school that:

- a. has a State-approved graded or non-graded course of instruction with certain standards required of students;
- b. gives credit for advancement toward class work completed;
- c. has compulsory attendance; and
- d. maintains records thereof.

2. Special exceptions may be made for alternative schools sponsored by the local school boards.

3. A recognized institution is any public or nonprofit private Residential Child Care Institution (RCCI), or distinct part of such institution, that operates principally for the care of children, and if private, that is licensed to provide residential child care services under the appropriate State licensing codes.

4. Under the above criteria, the following types of schools of high school grades or under and institutions generally qualify.

a. Boarding or Institutional Schools

i. Boarding or Institutional Schools are eligible to participate if food costs for school children are satisfactorily separated from the total food cost, including adults, and if prior approval has been obtained from the State Agency. Such eligible schools can claim reimbursement for only one lunch, breakfast, and/or snack per school child served on regular school days.

b. Bureau of Indian Affairs (BIA) Schools

i. Bureau of Indian Affairs schools are operated by the BIA or under a BIA contract; they are allowed to participate under the same terms as all other recognized schools.

c. Charter Schools

i. Independent public schools that provide a program of elementary or secondary education, or both, organized as nonprofit corporations and governed by their

own board of directors within the framework agreed to in the charter granted by the local school board or the SBESE are allowed to participate under the same terms as all other recognized schools. These schools must be public (governmental) or private nonprofit 501(c)(3).

d. GED Programs or Regular High School Completion Programs

i. GED Programs or Regular High School Completion Programs that operate during regular school hours in an eligible school may participate in the meal service.

e. Kindergarten or Day Schools

i. Kindergarten or Day Schools, public or nonpublic, are recognized as schools by State statutes. Such schools may be operated as an integral part of schools with higher grades, or as separate schools.

f. Military Post Schools

i. Military Post schools are schools of high school grade or under, operated by any branch of the Armed Forces, on any military installation within the State. They are allowed to participate under the same terms as all other recognized schools.

g. Nonresidential Nonprofit Child Care Institutions

i. Nonresidential nonprofit Child and Adult Care Institutions may participate in the Special Milk Program provided that they do not participate in a meal service program authorized by the National School Lunch Act or the Child Nutrition Act of 1966. These institutions are not eligible for lunch or breakfast programs, and they cannot participate in the NSLP or SBP.

h. Public or Nonprofit Private Pre-Primary Classes

i. Public or nonprofit private pre-primary classes are eligible if they are recognized as part of the educational system in the state or if they are conducted in a school having classes of primary or higher grades.

i. Public or Nonprofit Private RCCIs

i. Public or nonprofit private RCCIs that have temporary clientele are eligible to participate as long as they operate on a continuous basis. Private RCCIs must be licensed by the State and have tax-exempt status. RCCIs include, but are not limited to, homes for the mentally, emotionally or physically impaired; unmarried mothers and their infants; group homes; halfway houses; orphanages; temporary shelters for abused children and for runaway children; long-term care facilities for chronically ill children; and juvenile detention centers.

j. Split-session Kindergarten Programs

i. Split-session Kindergarten programs in schools that participate in a meal service program authorized by the National School Lunch Act and Child Nutrition Act may offer the Special Milk Program to children who attend split-session kindergarten and who do not have access to the meal service.

k. Special Schools

i. Special Schools include those conducted for blind, deaf, mentally or physically impaired, or special children. These schools are allowed to participate under the same terms as all other recognized schools.

l. State Special Training and Correctional Schools

i. State Special Training and Correctional Schools that are recognized or accredited by the LDOE are eligible to participate in the NSLP and SBP.

m. Nonpublic School

i. A nonpublic school is interpreted to mean a private school that is exempt from income tax under the Internal Revenue Code, as amended. This term also applies to parochial schools. These schools are allowed to participate under the same terms as all other recognized schools. These schools must have 501(c)(3) status from Internal Revenue Service.

D. Eligible Participants

1. Child

a. Child is defined as a student of high school grade or under as determined by the LDOE, who is enrolled in an educational unit of high school grade or under. Included in this definition are students who are mentally or physically disabled as defined by the State and who are participating in a school program established for the mentally or physically disabled. Child is also defined as a person who is under 21 chronological years of age who is enrolled in an institution or center that is a public or nonprofit private RCCI or distinct part of such institution that operates principally for the care of children. If this institution is private, it must be licensed to provide residential child care services under the appropriate licensing code by the State. Residential summer camps that participate in the SFSP for children, Job Corps centers funded by the Department of Labor, and private foster homes are not eligible to participate.

2. Student

a. A student is defined as an individual for whom instruction is provided in an elementary or secondary educational program under the jurisdiction of a school, school system, or other educational institution. If the school board administers a Head Start Program, these children may be eligible to participate as students. Contact the State Agency for clarification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2101 (December 2001).

**§111. Permanent Agreement Between Sponsor and Louisiana State Department of Education**

A. Sponsorship of a CNP is limited to the board of a public school system, the board of a charter school if public (governmental) or private nonprofit 501(c)(3), or the governing body legally responsible for the administration of a nonpublic school if 501(c)(3). As sponsors, the board or governing body shall execute the required agreement with the LDOE and accept responsibility for carrying out all terms. The Sponsor must also update a Schedule A listing all schools participating in the school lunch, breakfast, and/or snack program annually; submit an Application for Participation; provide staffing information; and provide any other required information regarding school food service in the schools or other institutions under its jurisdiction.

B. Reimbursement payments may be made only to schools operating under an agreement between the sponsor and LDOE. The Agreement shall be signed by the Sponsor's designated authorized representative. The Agreement will be considered permanent unless the State Agency is notified of a change in the School Food Authority (SFA) authorized representative. The Agreement may be terminated by either party or may be canceled at any time by the State Agency

upon evidence that terms of the A agreement have not been fully met.

C. Conditions of the Agreement

1. Nonprofit Programs

a. Child Nutrition Programs in schools named in the Schedule A shall be operated on a nonprofit basis. Income accruing from the operation of the CNP in participating schools shall be used only for program purposes, which include improving the quality of the lunches, breakfasts and/or snacks; offering meals to needy children; reducing the price of the meal to paying children; and purchasing and maintaining adequate movable equipment needed in storing, preparing and serving adequate meals to children.

2. Proper Authority

a. The sponsor will employ personnel and will supervise the school food service operations to ensure compliance with Federal and State regulations.

3. Competitive Foods/Extra Sales Items

a. Each school shall abide by the State policy regarding the operation of competitive food services. The competitive foods policy and penalties for policy violations are discussed in §941. Selling of extra items shall be in compliance with State policy. (Refer to §937.)

4. Nutritional Requirements

a. All meals/snacks served shall meet at least minimum nutritional requirements for a reimbursable lunch/breakfast and/or snack as set forth in program regulations.

5. Offering Lunch /Breakfast and/or Snack

a. Meals/snacks shall be served without cost or at a reduced cost to all students who are eligible in accordance with free and reduced price meal regulations.

6. Unit Price of Meals

a. Meals shall be priced as a unit, including milk; and no reduction shall be made in the price of the lunch, breakfast, or snack when students or adults do not take all items offered. In non-pricing meal programs, there shall be no specific charge as described in the Application for Participation except for the adult/visitor charge.

7. Nondiscrimination

a. No discrimination against any child shall be made by the sponsor because of his/her eligibility for free or reduced price meals in accordance with the approved Free and Reduced Policy Statement, nor shall the sponsor publish or provide the names to be published of any children eligible for free or reduced price meals.

8. Meal Charges

a. Meal charges including student, adult, and at-cost shall be posted in a prominent location in each school food service dining room. All persons consuming meals who are not eligible for free meals shall pay directly to the sponsor the cost posted. No student shall be requested to pay more than the actual cost of the lunch, breakfast, and/or snack, less the amount of reimbursement paid to the sponsor from Federal funds. The minimum charge to eligible adults shall comply with Federal and State regulations. (Refer to §527.)

9. Food Purchases

a. All food purchased in the operation of CNPs shall be purchased in accordance with all Federal and State procurement regulations. All procurement transactions of a sponsor, regardless of whether negotiated or advertised, and



without regard to dollar value, shall be conducted to provide maximum open and free competition.

#### 10. Local Responsibility

a. It will become the responsibility of the sponsor to secure additional funds needed if it is not possible to operate the school food service program satisfactorily with State and Federal Reimbursement. In operating CNPs, should a sponsor find that it is unable to operate satisfactorily on the rate of reimbursement, it will become the responsibility of the sponsor to secure the additional funds needed.

#### 11. Use of Funds

a. Income accruing to the CNP shall not be used to purchase land, to acquire or to construct buildings, or to make alterations to existing buildings. Revenues received by the nonprofit school food service are to be used for the operation or improvement of such food service. (Refer to Chapter 3. Financial Management and Accounting.)

#### 12. Equipment Purchases

a. Purchases made for approved equipment from school food service funds shall be for the replacement or addition of equipment. All equipment needed to begin operation of the CNP must be furnished by the sponsor or school. (Refer to Chapter 13. Equipment.)

#### 13. Adequate Facilities

a. Adequate facilities shall be maintained for storing, preparing, and serving food purchased for the CNP and food donated by USDA. Facilities shall properly safeguard foods against theft, spoilage, infestation, damage, and other losses. Proper sanitation and health standards conforming to all applicable State and local laws and regulations will be maintained in all CNPs.

#### 14. Deposit of Funds

a. The Sponsor shall be responsible for separate accounting of all school food service funds. A consolidated school food service account is the suggested method of accounting for these funds.

b. Using this method, a Sponsor would deposit or cause to be deposited in the consolidated school food service account, all school food service funds received, write all checks against these funds, and maintain complete records for the expenditure of these funds.

#### 15. Records

a. The Sponsor shall maintain a financial management system as prescribed by the LDOE and the USDA. Full and accurate records of all operations pursuant to the agreement shall be retained by the sponsor for a period of three years after submission of the final claim for reimbursement for the fiscal year. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed. If any litigation, claim, negotiation, audit or other action involving the records has been started before the end of the three year period, the records shall be maintained until all issues have been resolved, or until the end of the regular three year period, whichever is later. The sponsor will make available to the LDOE and to the USDA for examination, audit and review, at any reasonable time and place, all accounts and records of the sponsor pertaining to the operation of the program. (Refer to Chapter 3. Financial Management and Accounting.)

#### 16. Reports and Claims

a. The sponsor will monthly submit to the LDOE a report of program operations for each month and claims for

reimbursement for meals/snacks served to eligible children in each school during operating and non operating months. The sponsor will assume full responsibility for the accuracy of all claims for reimbursement and for reports submitted to the LDOE pursuant to the agreement. The sponsor will claim reimbursement for meals/snacks served to only eligible children at the assigned rates. If there is any irregularity in the operation of the CNP in any school, a disallowance shall be made in the sponsor's claim.

#### 17. Approved Classification and Brumfield VS. Dodd

a. Each school shall have a State-approval classification and shall be in compliance with Brumfield vs. Dodd.

#### 18. Annual School Report

a. All schools shall submit an Annual School Report to the LDOE, according to the established timeline.

#### 19. Annual Financial Statistical Report

a. Each sponsor shall submit information required for the completion of the Annual Financial and Statistical Report.

#### 20. Civil Rights Compliance

a. No person shall, on the grounds of race, color, national origin, sex, age or disability, be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity for which the program applicant receives Federal financial assistance from the USDA; and the sponsor shall give assurance that it will immediately take measures necessary to effectuate the agreement. The program applicant shall compile data, maintain records, and submit reports, as required, to permit effective enforcement of the nondiscrimination laws. The sponsor shall permit authorized USDA and LDOE personnel to review such records, books, and accounts during normal working hours as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the USDA shall have the right to seek judicial enforcement of this assurance.

b. All program advertisements, public release, etc. shall have the civil rights statement printed on them. (Refer to Chapter 21: Handling-Handling Complaints.)

#### 21. Program Materials

a. The sponsor shall agree to make educational materials pertaining to the CNP available to the schools.

#### 22. Regulations

a. The CNPs at all times shall be operated in accordance with all policies and regulations as established by the LDOE, and/or USDA. (Refer to Code of Federal Regulations (CFR) 210 to 299 and (CFRs) 3015, 3016, 3017, 3018, and 3019 for additional information on Federal Regulations.)

#### 23. Net Cash Resources

a. The LDOE shall review the information on net cash resources and shall require the Sponsor with school food service net cash resources of more than three months average expenditures to explain the need for such resources. If, after consideration of the plan, it is determined that resources are excessive to operating needs, the LDOE will reduce or deny reimbursement payments until the net cash resources have been reduced to an amount consistent with the operating needs.

#### 24. Transfer of Funds

a. Charges against the CNP must be made each month as the expenses occur or in the event that an expense(s) occurs only at intervals: i.e., quarterly or semi-annually. At the end of the school year, the transfer to the sponsor of school food service funds for apportioned costs accruing during the year will not be allowed except for expenses incurred during the month of June or the last month of operation: i.e. such transfer cannot be effected for the entire year's operation. Expense(s) must be charged against the CNP at that time and payment must be made from the school food service program account to the sponsor at the time the expense(s) occurs. Any deviation from this policy shall necessitate repayment to the CNP account of the full amount of the transfer.

#### 25. Contract Meals

a. The Sponsor agrees to submit annually, with the free and reduced documents, a copy of the contract when contract meals are provided. (Refer to §929.)

#### 26. Donated Foods

a. The CNP shall accept and use, in as large quantities as may be efficiently utilized in its nonprofit school food service, donated foods offered by the USDA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2102 (December 2001).

### Chapter 3. Financial Management and Accounting

#### §301 Financial Assistance

##### A. Federal Assistance

1. Funds are apportioned to the State to be used in reimbursing schools for the cost of the school food service program. Distribution is made on the basis of the number of lunches, breakfasts, and snacks served to children.

##### B. State Assistance

1. State funds for the support of food service employee salaries are provided to the local level through the education block grant. The Minimum Foundation Program (MFP) formula is used to allocate these funds to local educational programs. At a minimum, School Food Authorities (SFAs) shall designate State funds to the school food service program at a level sufficient to meet revenue fund matching requirements, as specified in USDA, FNS, 7 CFR Part 210.17. If at any time the school food service program operating balance is at a deficit, it will become the responsibility of the SFA to secure the additional funds needed to operate the school food service program satisfactorily.

##### C. Local Assistance

1. Local sales tax revenues, school general fund monies, and other dedicated sources of revenues may be available at the local level for use in the school food service program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2104 (December 2001).

#### §303 Basic Requirements for School Food Service Financial Accountability

A. The following requirements are mandated for financial management of the National School Lunch Program, the School Breakfast Program, and the Special Milk Program in Louisiana. Federal and State regulations require the adoption of these standards as a minimum level of compliance toward financial accountability.

##### 1. Nonprofit

a. The SFA shall operate the program as a nonprofit school food service operation.

##### 2. Menus/Production Records

a. Menu records shall be developed and maintained to demonstrate positive action toward meeting the required nutrient standards as defined in USDA, 7CFR, 210.10. Production records shall be maintained daily to demonstrate positive action toward providing one reimbursable lunch, breakfast, and snack (as applicable) per eligible child per day.

##### 3. Participation Data

a. Documentation of participation data per school shall be maintained daily to support the Claim for Reimbursement.

##### 4. Counting and Recording Meals

a. The system used for counting and recording meal totals, by category, claimed for reimbursement at both the SFA and school levels shall yield correct claims.

##### 5. Expenditures

a. Expenditure of funds shall be limited to food, labor, and other allowable costs as noted in this chapter. School food service funds shall be expended solely for the school food service programs.

##### 6. Separate SFS Accounting/School Deposits

a. The Sponsor shall be responsible for separate accounting of all school food service funds. All money earned or received, including interest on investments, must accrue to the school food service account.

b. Schools shall deposit all receipts daily. Any exceptions must have written approval from the State Agency on file. Money collected must be stored in a secure place at the schools. Any losses that occur through theft must be verified by a complete police report of the incident. Any losses that occur because of negligence that cannot be verified by a police report must be recovered from other funds.

##### 7. Transfer of Funds

a. School food service funds may be loaned to the General Fund; however, the funds and market interest rate shall be repaid within the same fiscal year.

##### 8. Transaction Records

a. All income, expenditures, and meal counts shall be supported by source documents such as itemized invoices, attendance and payroll records, deposit slips, inventory records, participation records, etc.

##### 9. Inventory Requirements

a. Perpetual inventories and separate monthly physical inventories of purchased food and USDA

commodities are required. An annual inventory of equipment valued at a unit acquisition cost of \$1000 or more with a useful life of one year or more is required.

10. Property Management Standards

a. The SFA shall follow property management standards to safeguard school food service property as described in, §323: Property Management Requirements.

11. Retention of Source Documents

a. All records, reports, inventories, invoices, receipts, and other source documents shall be maintained for a period of three years after submission of the final Claim for Reimbursement for the fiscal year to which they pertain. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed. Records for equipment with a unit acquisition cost of \$1000 or more with a useful life of one year or more acquired in whole or in part with school food service funds shall be retained for three years after its final disposition.

12. Records

a. All records pertaining to the National School Lunch, School Breakfast, and Special Milk Programs are subject to audit by both State and Federal authorities to determine, at a minimum, the fiscal integrity of financial transactions and reports and the compliance with laws, regulations, and administrative requirements.

13. Accountability of Assets

a. Control over and accountability for all funds, property, supplies, and other program assets shall must be maintained to ensure that they are safeguarded and used solely for authorized program purposes.

14. Auditing of Federal Funds

a. A SFA expending a total of \$300,000 or more a year in Federal funds for all programs, shall have a single or program specific audit conducted in accordance with the provisions of Circular A-133. (Refer to §333: Audit Requirements, for additional information.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2104 (December 2001).

**§305. Nonprofit Status/Net Cash Resources**

A. Each SFA shall, with respect to participating schools under its jurisdiction, maintain a nonprofit school food service and observe the following limitations on the use of nonprofit school food service revenues.

1. Revenues

a. Revenues received by the nonprofit school food service shall be used only for the operation or improvement of such food service. Expenditures of nonprofit school food service revenues shall be in accordance with the policies discussed in §317: Allowable/Unallowable Program Expenses.

2. Nonprofit Nutrition Program

a. SFA may use facilities, equipment, and personnel supported with nonprofit school food service revenues to support a nonprofit nutrition program for the elderly, including a program funded under the Older American Act of 1965.

3. Net Cash Resources Limit

a. The SFA shall limit its net cash resources to an amount that does not exceed three months average expenditures for its nonprofit school food service. Section 3,

"Net Cash Resources," of the June District Income and Expense Report must be completed at the end of the State fiscal year. Exception: RCCIs do not report Net Cash Resources. (Refer to "RCCIs Nonprofit Status" in this section.) This procedure allows the State Agency to monitor the SFA's nonprofit status.

4. Calculation of Three Months Average Expenditures

a. The following procedure is used in determining three months average expenditures:

i. total all district expenses for the entire fiscal year, July 1 - June 30;

ii. divide total expenses by 9 and multiply by 3 to calculate the three months average expenditures;

5. Determining Net Cash Resources

a. The following procedure is used in determining net cash resources:

i. record cash on hand in school cafeterias and/or the central office that has not been deposited;

ii. add the latest reconciled operating-fund bank balance;

iii. add the total value of investments, including interest earned, certificates of deposit, money market funds, etc.;

iv. add the total of any accounts receivable such as outstanding reimbursement checks;

v. subtract the subtotal of any payables such as salaries earned but not yet paid, etc.

B. Excess Net Cash Resources

1. If the net cash resources exceed the SFA's three months average expenditures, the SFA must submit a written corrective action plan to the State Agency with its June claim for reimbursement. The corrective action plan must describe actions for reducing net cash resources to no more than three months average expenditures and the time frame for effecting such reduction. If the plan is not approved by the State Agency or is not implemented as approved, the reimbursement may be reduced or denied.

C. RCCI's Nonprofit Status

1. The State Agency will monitor the nonprofit status of RCCIs by ensuring that the cost of providing meals to eligible children equals or exceeds funding received by the program from Federal and/or State funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2105 (December 2001).

**§307. Food Production**

A. In order to receive reimbursement, the SFA shall demonstrate that meals and snacks meet the minimum requirements established for lunch, breakfast, and snacks. Sufficient records must be maintained on file at each school/central kitchen to document that reimbursable meals and snacks were served.

1. Menus

a. Cycle menus are required; they shall be planned in advance and implemented during the school year. Menu records must be maintained to reflect meals as planned and served.

2. Standardized Recipes

a. Standardized recipes shall be developed and used to prepare menu items. They must be maintained and available at each school/central kitchen.

### 3. Daily Food Production Records

a. Production records shall include sufficient information to evaluate each meal's /serving line's contribution to the meal patterns as specified in Federal Regulations 7CFR 210.10.

b. Daily Food Production Records of the school lunch/breakfast/snack programs shall be maintained up-to-date for each participating facility by the manager. At a minimum, these records must include the items listed below:

- i. the number of servings planned according to serving size;
- ii. each menu item served/offered, including condiments;
- iii. major/key ingredient(s) for each menu component/food item if a Daily Issue/Withdrawal form is used (If a Daily Issue/Withdrawal form is not used, all ingredients must be listed.);
- iv. the serving size(s) of each menu component/food item;
- v. the quantities of foods used;
- vi. the number of servings/quantities of foods leftover;
- vii. the number of persons served according to serving size and category, adult or student; and
- viii. the number of trays/plates used.

c. The State agency provides a prototype Daily Food Production Record. The SFA may develop its own form if the form contains the required information and the State Agency gives prior approval.

#### B. Daily Issue/Withdrawal Forms

1. SFAs not costing on the Food Production Record must complete a Daily Issue/Withdrawal form for all ingredients used in preparing the breakfast, lunch, and snack menus. The State Agency provides a prototype Daily Issue/Withdrawal Form. The SFA may develop its own form with the required information.

2. Daily Issue/Withdrawal records shall include sufficient information to evaluate the menus' contribution to the meal patterns as specified in Federal Regulations 7CFR 210.10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2105 (December 2001).

### §309. Daily Participation Report

A. Each facility, including satellite schools, operating under a separate site code, shall maintain daily participation records. At a minimum, these records must include:

1. data on the income received;
2. number of meals served according to the appropriate categories-free, reduced, and paid student meals/snacks;
3. contract meals;
4. at cost/visitor meals;
5. school food service employee meals;
6. school system employee meals; and
7. extra servings.

Schools participating in Special Assistance Certification and Reimbursement Alternatives--Provisions 1,2, or 3--shall maintain participation records as specified in the Policy Statement for Free and Reduced-Price Meals. Information from the Daily Participation Report shall be submitted at the

end of the month on the school system's Claim for Reimbursement.

B. The Daily Participation Report must be completed by the manager or food service clerk and must be accessible to the central office of the SFA following the month of operation. A prototype Daily Participation Report is provided by the State Agency. The SFA may develop its own form if the required information is provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2106 (December 2001).

### §311. Extra Sales Accountability

A. The SFA must ensure that schools implementing extra sales maintain a daily record of the number of servings of each extra sale item prepared, the number sold, the number leftover, the sale price, and the amount collected for each item sold that day. Schools that consistently sell only a few of the same extra items each day may be able to maintain the required information on a combination of the Food Production Record and Daily Participation Report. Schools that sell numerous extra sale items each month shall maintain a separate extra sales accountability form. The forms shall be submitted to the central office of the SFA monthly. A prototype Extra Sales Form is provided by the State Agency. The SFA may develop its own form if the required information is provided.

B. For information on pricing extra sales, the SFA should refer to §337: Pricing for Extra Sales Items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2106 (December 2001).

### §313. Special Functions/Catering

A. The SFA may allow the school food service program to provide services beyond the established school lunch, breakfast, and after school snack programs. Special functions and/or catering activities shall not interfere with the preparation and service of student meals/snacks.

#### 1. Use and Sale of Commodities

a. USDA commodities shall not be used in the preparation of any food item used in catering/special functions (for example, supplying refreshments for the PTA/PTO); however, commodities may be used in the preparation and sale of foods for any school related functions where the primary beneficiaries of the food are the students themselves. (Refer to Chapter 17: Commodities.)

#### 2. Accountability

a. All records shall be maintained separately from the school lunch, breakfast, and snack records for a minimum of three years. A detailed record of food; labor; equipment and supplies such as paper, disposables, cleaning, etc.; and delivery costs must be maintained. All catering and special function records shall document the type of activity/event, school food service employees who worked, the number of hours they worked, and a completed Daily Food Production Record. The Daily Food Production Record shall include the number of meals planned and the foods and supplies used/purchased with accompanying costs.

b. School food service must be paid for all services, food, and supplies used in connection with/catering/special functions. The charges for any product or service must be

sufficient to recover the full production cost (including commodities when allowed) plus a profit. At a minimum, these costs shall include food, labor (wages plus any benefits), paper and nonfood supplies, transportation, utilities, etc. It is recommended that the SFA add a minimum of 10 percent to the total bill to ensure that all costs are recouped. All monies earned or received shall accrue to the school food service account. The collection and reporting of State and local taxes shall comply with regulations governing sales and use tax. To maintain a tax-exempt status and to avoid competing with the private sector of the community, each SFA should limit catering to schools, school-sponsored events, and nonprofit organization events. (For additional information, contact the nearest district office of the Louisiana Department of Revenue and Taxation, Sales Tax Division.)

c. Separate accounting records must be maintained for catered events. These records shall document all purchases and expenditures. All accounting practices must follow guidelines outlined in Bulletin 1929: Louisiana Accounting and Uniform Governmental Handbook, Bulletin 1929. (For more information and requirements, refer to Chapter 7: Catering, Special Functions.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2106 (December 2001).

### **§315. Rental of School Food Service Equipment**

A. School food service programs that have purchased equipment not being fully utilized by school food service may choose to share this equipment with other school programs under a rental agreement. The fair market rental must be charged. Examples of equipment that school food service may rent to other programs include computer space/time, copy machines, trucks, etc.

B. Rental agreements between school food service and other school programs shall have prior written approval from the State Agency. Equipment purchased with school food service funds must be used solely for school food service unless an approved rental agreement has been executed. The rental of school food service equipment to other programs must not interfere with the operation of the school food service program.

C. The rental agreement should contain, but not necessarily be limited to, the following:

1. a description of the equipment, including manufacturer's serial number;
2. the rental period;
3. the amount of time and hours the equipment is available for use;
4. the rental fee and payment procedures; and
5. a clause which allows for termination of the agreement should school food service require full use of the equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2107 (December 2001).

### **§317. Allowable/Unallowable Program Expenses**

A. The expenditure of program funds shall be limited to food, labor, and other allowable costs incurred in the

operation of the overall school food service program. The expenditure of school food service funds for any items other than those specified or for which prior approval has been given by the State Agency will necessitate an audit adjustment of the total amount of the expenditure.

B. The reimbursement from school food service funds to the Sponsor's general fund for apportioned costs occurring during the year will not be allowed at the end of the school year. Charges against the school food service program must be made each month as the expenses occur. In the event an expense occurs only at intervals, e.g., quarterly or semi-annually, the expenses must be charged against the school food service program at the time; and payment must be made from the school food service program account to the Sponsor at the time the expense occurs. Any deviation from this policy will necessitate repayment to the school food service program account of the full amount of the reimbursement.

#### **1. Joint Expenses/Purchases**

a. Sometimes it is in the best interest of the SFA to share the expenses or to purchase jointly items or services that will not be utilized solely by the SFA. Examples of such shared expenses are labor costs for time and effort devoted specifically to the school food service program and costs of shared equipment such as computers and copy machines.

b. Certain joint purchases made with program funds are allowable with prior written authorization from the State Agency. A plan for allocation of costs will be required to support the distribution of any joint costs related to the school food service program. All costs included in the plan will be supported by formal accounting records, which will substantiate the propriety of eventual charges. The allocation plan should contain, but not necessarily be limited to, the following:

- i. the nature and extent of services provided and their relevance to the school food service program;
- ii. the items of expense to be included; and
- iii. the methods to be used in distributing costs.

c. After approval has been received, the plan for allocation of cost shall be retained at the central office for audit purposes. The cost allocation plan shall be retained for three years after the end of fiscal year in which the sharing ceases or the equipment is disposed.

#### **2. Food**

a. The actual costs for food used for the operation of the nonprofit school food service program is an allowable expense. (Refer to §323: Inventory of Food, and Cost of Food Used.) The Cost of Food Used form is used to calculate the monthly food cost. The costs for food used for all schools within the SFA are totaled and reported on the annual District Income and Expense Report.

b. If food is stolen, a police report must be maintained on file for audit purposes. Expenses for food stolen are considered allowable costs only when a police report has been made. All losses of USDA commodities must be reported to the Food Distribution Division on a Claim Determination Form by the 25<sup>th</sup> of the month following the month of the loss. If the loss is a result of theft, the local police must investigate and a copy of the police report must accompany the Claim Determination Form.

#### **3. Equipment**

a. The acquisition cost of authorized equipment used directly in the food service operation, installation costs within the building, and the costs of repairs to such equipment are allowable program expenses. Purchases of equipment listed in this table need no prior State approval. (Refer to the Table of Authorized Large and Small Equipment, located in Chapter 13: Equipment.)

b. The purchase of other equipment not addressed in the table is sometimes necessary for the efficiency/effectiveness of the school food service operation. Such purchases, however, require prior approval from the State Agency.

c. There are certain categories of equipment that are unallowable school food service expenses. Unauthorized equipment items are listed in Chapter 13: Equipment.

d. Initial equipment is the equipment that a Sponsor is required to have to begin a school food service program. The replacement of worn-out initial equipment or the purchase of additional equipment is an allowable expense. (Refer to Chapter 15 for guidance on required initial equipment.)

e. The costs of disposition of antiquated or inoperable equipment are allowable expenses. (Refer to Section §323: Disposition of Equipment for Guidance.)

#### 4. Labor and Benefits

a. Salaries and benefits for personnel who work full time for the school food service program are allowable costs. Salaries and wages of personnel who work part of the time for the school food service program and part of the time for other school programs must be allocated or prorated based on the actual hours worked for each program. Appropriate records of time spent on each program, as well as payroll records and job descriptions, must support the portion of costs reported as school food service expense. According to the United States Department of Agriculture (USDA), allowable costs include salaries, wages, and fringe benefits such as the employer's share of the contribution for retirement expenses and/or Social Security; employees' accident, health, and life insurance plans; unemployment insurance coverage; worker's compensation coverage; and health examinations for employees. Fringe benefits may also include compensation for personal consumption or incentive bonuses for schools that meet preset participation/revenue, budget compliance, and maintenance of sanitation standards, low employee absenteeism. The standard for allowable expenditures of a nonprofit school food service is that they represent allowable costs under applicable Federal cost principles and program regulations. The principles are established that items of employee compensation may be allowed to the extent these costs: are necessary and reasonable; are granted under established written procedures; are allocated, or charged, to Federal awards (the nonprofit school food service account in this case) in a manner consistent with the pattern of benefits attributable to the employees whose salaries and wages are being charged. That is, salaries and fringe benefits may only be assigned to the nonprofit school food service account to the extent that account is benefiting from these employees, and are consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit. (Refer to USDA memo 2001-SP-04.)

b. The State Agency recommends that labor expenses represent no more than 40 percent of the total school food service expenses. Labor costs should include all expenses paid to school food service personnel, including the central office, warehouse, and maintenance employees if paid with school food service funds. The payment for services of other school personnel, such as school secretaries, school bookkeepers, and school board members, is an unallowable expense. Extra monetary compensation to school administrators, teachers, custodial and janitorial personnel for services to the program is also unallowable.

c. Each SFA shall have a certified Child Nutrition Program (CNP) supervisor or director. Each individual school food service unit shall have a certified manager assigned to oversee the operation. A certified manager may be assigned to one or more sites. The use of program funds to pay the salaries or wages of uncertified supervisors/directors, managers, assistant managers, or food production managers is unallowable. The use of program funds to pay the salaries or wages of provisionally certified supervisors/directors and temporarily certified managers is allowable.

#### 5. Utilities

a. The cost of utilities is an allowable expense when substantiated by separate meters or by documented technical estimates conducted by the utility company or an engineering or energy consultant. The expense of hiring a consultant to document the technical estimate is also an allowable program expense. A copy of the technical estimate shall be maintained on file for three years after the end of the fiscal year in which the estimate ceases to be in effect. The estimate should be updated as necessary.

#### 6. Maintenance and Repair

a. Routine preventive maintenance and repair of school food service equipment are allowable expenses.

#### 7. Materials and Supplies

a. Other materials and supplies purchased for direct use in the school food service program are allowable expenses. Some examples of these expenses are supplies such as napkins, straws, aluminum foil, freezer paper, plastic wrap, cleaning and washing supplies, first aid and safety supplies, pest control, garbage pickup, uniforms, employee safety belts, laundry expenses, meal tickets, I.D. cards, computer software, office supplies, postage, and printing.

#### 8. Marketing

a. Promotional materials relating specifically to the education and marketing of the Child Nutrition Programs to students, parents, teachers and the community are an allowable expense. Documentation to support each purchase must be maintained.

#### 9. Meetings, Training, and Nutrition Education Activities

a. The cost of supplies for instructing students and teachers within the school system in nutrition education is an allowable expense. The expenses incurred to provide in-service training for school food service employees are also allowable expenses. Such expenses include purchase and/or rental of audiovisual equipment, purchase of training materials and supplies, and rental of meeting facilities. Other costs incidental to attending meetings and receiving training are also allowable. Costs for meetings are allowable when the primary purpose of the meetings is the dissemination of

technical information relating to the school food service program. (Refer to Paragraph 12: Travel in this section for further details.)

#### 10. Rental of Building/Warehouse Space

a. The rental cost of space in privately owned buildings used specifically for the benefit of the school food service program is allowable when the State Agency grants prior written approval.

#### 11. Transportation

a. Expenses incurred for freight, cartage, express, postage, and other transportation costs relating either to goods purchased, delivered, or moved from one location to another are allowable. These expenses include transporting commodities, satelliting meals, and the delivery of purchased items.

#### 12. Travel

a. Travel costs are allowable for expenses for transportation, lodging, subsistence, registration fees, and related items incurred by employees who are in travel status on official business incident to the school food service program. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual cost incurred, or on a combination of the two. The method used shall be applied to an entire trip, and shall result in charges consistent with those normally allowed in like circumstances in non-federally sponsored activities.

b. The difference in costs between first-class and less-than-first-class air accommodations are unallowable except when less-than-first-class air accommodations are not reasonably available. Travel outside the state requires prior written approval from the state agency.

#### 13. Insurance and bonding

a. Costs incurred for insurance coverage and premiums on bonds covering employees handling program funds are allowable expenses. Insurance types and the extent and cost of coverage will be in accordance with general state or local government policy and sound business practice. Contributions to a reserve for a self-insurance program approved by the state agency and by USDA are allowable to the extent that the type of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

b. Actual losses that could have been covered by permissible insurance, through an approved self-insurance program or otherwise, are unallowable. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small equipment which occur in the ordinary course of operations, are allowable.

#### 14. Legal Expenses

a. The costs of legal expenses required in the administration of the school food service program are allowable. Legal services furnished by the chief legal officer of the State or local government of his staff solely for the purpose of discharging his general responsibilities as legal officer are unallowable. Legal expenses for the prosecution of claims against the State or Federal government are unallowable.

#### 15. Membership Dues and Subscriptions

a. Payment of individual membership dues to professional organizations is an unallowable expense. The costs of books and subscription to professional and technical periodicals is allowable when related to the school food service program.

#### 16. Printing and Reproduction

a. The costs for printing and reproduction services necessary for program administration including but not limited to forms, reports, manuals, free and reduced price meal applications, meal tickets, and I. D. cards are allowable expenses.

#### 17. Advertising/Publication

a. Advertising and publication costs that are related to the school food service program are allowable expenses. Such advertising may include the following:

- i. formal advertisement of bids for the procurement of goods and services;
- ii. recruitment of program personnel;
- iii. disposal of scrap or surplus material;
- iv. announcement of free and reduced price meal applications; and
- v. publication of school menus.

#### 18. Taxes

a. Taxes that the school food service program are legally required to pay are allowable expenses. These include State and/or local sales taxes.

#### 19. Repayment of Loans

a. If it becomes necessary for a school food service (SFS) program to borrow money from the general fund to meet expenses, the repayment of this loan to the general fund is allowable provided the SFS program has financial resources to repay the loan within the same fiscal year. If the SFS fund cannot repay the loan in the current year that it was borrowed without ending the year in a deficit, then the loan ceases to be a loan and the SFS program is no longer obligated to repay the general fund.

b. Payment of interest by a SFS on loans from the general fund is prohibited.

#### 20. Audit Services

a. The school food service program's share of audit expenses is allowable. (Refer to §333: Audit Requirements, for more information.)

#### 21. Equipment Reserve Account

a. Contributions to a reserve for a major equipment replacement/purchase and/or lease program are allowable to the extent that total accumulated assets do not exceed an amount equal to the SFA's three months average expenditures. Since these funds are restricted, the equipment reserve account is not considered part of the SFA's operating balance. Interest that accrues to this account can be deposited to the school food service operating account or to the equipment reserve account. Equipment reserve funds must be itemized and reported with other net cash resources on the June District Income and Expense Report. This reserve for equipment replacement/purchase/lease shall remain part of the SFA's school food service account and shall be used solely for the replacement and/or purchase/lease of equipment for the school food service program. (Refer to §305: Nonprofit Status/Net Cash Resources.)

#### 22. Bad Debts

a. Any losses arising from uncollectible accounts and other claims and related costs are unallowable.

23. Contributions and donations

a. Contributions, donations, payments of gifts, and gratuities made with school food service funds are unallowable.

24. Entertainment

a. Costs of amusements, social activities, and incidental costs relating thereto, such as meals, beverages, lodgings, rentals, transportation and gratuities, are unallowable.

25. Fines and Penalties

a. Costs resulting from violations of, or failure to comply with Federal, State, and local laws and regulations are unallowable.

26. Interest and Other Financial Costs

a. Interest on borrowing, however represented, bond discounts, costs of financing and refinancing operations and legal and professional fees paid in connection therewith are unallowable.

27. Capital Expenditures

a. The costs of capital improvements to food service facilities are unallowable. Such expenses include the purchase of land, acquisition or construction of buildings, and alterations or additions to existing buildings. Those improvements that materially increase the value or life of the building itself are considered as capital expenditures.

28. Cafeteria Enhancement

a. Costs incurred to improve the appearance and overall environment in the school cafeteria are allowable to the extent that such improvements do not constitute capital expenditures. Allowable expenses include paint, wall coverings, decorator items, window coverings, floor coverings and screens.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2107 (December 2001).

**§319. Accounting/Deposit of Funds**

A. The Sponsor shall be responsible for separate accounting of all school food service funds. This separate accounting may be achieved by maintaining a separate school food service bank account. If the funds are deposited into a central account of the Sponsor, separate cost centers for various program revenues and expenses must be implemented. All money collected, earned or received, including interest on investments, must accrue to the school food service bank account or cost center. The authorized SFA representative must make all disbursements from the school food service bank account or cost center.

B. Schools shall deposit daily all school food service income collected. These funds may be deposited into individual school food service bank accounts and transferred twice a month or at the end of each month into the central school food service bank account. Schools may also deposit directly into the central school food service account. The amount collected each day must be recorded on the Daily Participation Report. A bank validated copy of the deposit slip must be retained on file.

C. Where there is no bank in close proximity to the school, upon request the State Agency may approve less frequent deposits. In such instances, a deposit slip shall be

completed for each day that money is collected. Deposits must be made at least once a week prior to the weekend and monies must be stored between deposits in a secure place at the school. Any losses that occur through theft must be verified by a complete police report of the incident.

D. All school food service funds must be deposited in financial institutions with Federal depositors' insurance coverage such as FDIC or FSLIC. Any balance exceeding the federally insured coverage must be collaterally secured.

E. Since the funding source of NSLP, SBP, and SMP is predominately from public funds and depreciation is not required, Sponsors are encouraged to account for the program funds as a Special Revenue Fund. As a Special Revenue Fund, public school systems and residentially sponsored by public agencies shall comply with the Louisiana Local Government Budget Act.

F. Program cost accounting and reporting shall comply with the classification and coding system set forth in the latest revision of Bulletin 1929: Louisiana Accounting and Uniform Governmental Handbook for Local School Boards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2110 (December 2001).

**§321. Source Documents**

A. The SFA shall maintain or cause to be maintained, for a period of three years after submission of the final Claim for Reimbursement for the fiscal year to which they pertain, full and accurate records of all operations pursuant to the Agreement. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed.

B. The SFA shall submit monthly during operating and non-operating months to LDOE a report of program operations and Claims for Reimbursement System Participation Data and School Participation Data) for meals/snacks served to children in each school. The District Income and Expense Report shall be submitted annually at the close of the fiscal year. The SFA shall assume full responsibility for the accuracy of all claims and reports submitted.

C. Source documents for program operations include but are not limited to the following:

- i. all canceled checks;
- ii. agreements;
- iii. applications for free and reduced meals;
- iv. attendance factors;
- v. claim for Reimbursement;
- vi. contracts or agreements to provide meals;
- vii. copies of deposit slips;
- viii. cost of Food Used Worksheets;
- ix. daily Food Production Records;
- x. daily Participation Reports;
- xi. direct certification documentation;
- xii. edit check documentation;
- xiii. employee time and attendance records;
- xiv. inventories, (physical, perpetual);
- xv. invoices for food, equipment, labor, and supplies;
- xvi. labor Budgets for RCCIs and private schools;
- xvii. letters from the State Agency granting approvals or exemptions;



- xviii. master lists of approved eligibles with dates of approval and termination;
- xiv. meal equivalent factors;
- xx. policy Statement documents;
- xxi. procurement documents;
- xxii. property management records;
- xxiii. severe need breakfast documentation;
- xxiv. schedule A;
- xxv. SFA monitoring documentation (breakfast, lunch and snacks);
- xxvi. meal count documentation such as tickets and/or ticket stubs, checklists, etc.;
- xxvii. Product Formulation Statements;
- xxviii. verification documentation;
- xxix. menus/recipes;
- xxx. Nutrient Analysis (if applicable);
- xxxi. Child Nutrition Labels (Food Based Menu Planning Option);
- xxxii. Issue/Withdrawal Form (if costing is not entered on the Food Production Record).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2110 (December 2001).

### **§323. Property Management Requirements**

#### **A. Inventory of Food**

1. The first-in, first-out (FIFO) method of inventory usage is required. All food items shall be dated upon delivery and utilized on a first-in, first-out basis.

2. Physical inventories of food quantities stored in each school shall be completed on the last day of each month of operation. Purchased foods and USDA commodities must be inventoried separately.

3. Perpetual inventories of both purchased and USDA commodities shall be maintained daily in each school and reconciled with the physical inventories at the end of the month. The perpetual inventory may be maintained by a manual or a computerized system.

4. School systems that use a warehouse facility to store food must also maintain a daily perpetual inventory. A physical inventory of foods stored in the warehouse must be completed at least once every quarter and reconciled with the perpetual inventory.

5. Each SFA should develop its own physical and perpetual inventory formats that reflect food items normally purchased for its schools. Sample inventory forms for taking a physical inventory and maintaining a perpetual inventory are available from the State Agency upon request.

#### **B. Noncosted Physical Inventory**

1. A noncosted physical inventory is a physical count of all unopened units of each item in stock that is recorded on an inventory form. To take a noncosted physical inventory,

a. prepare a form that lists all items in inventory and the unit size of each; include all items carried in the storeroom(s), refrigerators, freezers, and in the kitchen;

b. require that two people take the inventory, one to count and one to record;

c. using a blank inventory form, record the number of unopened single units in the storeroom(s), refrigerators, freezers, and in the kitchen; any single unit of food that has been opened during the month, but not completely used by

the end of the month, should be counted as being used and should not be inventoried. (A single unit is defined as the smallest quantity of the food item; the smallest quantity is usually the purchase unit listed in the USDA Food Buying Guide, such as pounds or cans; the only exceptions to the single unit rule are large bulk units of staples--such as flour, rice, meal, etc.-- which may be inventoried by the pound or by the purchase unit; margarine may be withdrawn from the inventory by the case, and eggs may be withdrawn by the case or by the dozen.);

d. after taking the physical inventory, compare it to the perpetual inventory; if there are differences, recount those items; if the discrepancy remains, review the food production records, daily issue/withdrawal sheets (if kept separate from the Food Production Record 6), and/or invoices to determine whether amounts recorded in the perpetual inventory are correct; if the discrepancies cannot be resolved, notify the supervisor and adjust the perpetual inventory to reflect the actual counts on hand.

#### **C. Costed Physical Inventory**

1. A costed physical inventory is a physical count of all unopened units of each item in stock. The number and value are then recorded on an inventory form. To take a costed physical inventory, adhere to the following procedures:

a. As items are received, mark each case, box, can, bag, etc. with the unit cost. Repeat the steps as listed in this Section entitled "Noncosted Physical Inventory." In addition, record the cost of each unopened unit of food item in stock. If a food item has different costs on the units in stock, then the number of single units and the price must be recorded for each different cost.

c. After taking the physical inventory, compare it to the perpetual inventory. If there are differences, recount those items. If the discrepancy remains, review the food production records, and/or the daily issue/withdrawal sheets (if kept separate from the food production records), and/or invoices to determine whether the amounts recorded in the perpetual inventory are correct. If the discrepancies cannot be resolved, notify the supervisor and adjust the perpetual inventory to reflect the actual counts on hand.

d. After reconciling the physical inventory with the perpetual inventory, multiply the number of units of each item by the price per unit to obtain the total cost or value.

e. Total the costs of all items to obtain the total cost of the entire inventory. If food items are not exempt from State and/or local tax, the total cost of the inventory must be multiplied by the applicable tax percentage to determine the amount to be applied. Add the tax to the total cost of the inventory. If items are exempt, do not add any tax to the inventory cost.

#### **D. Noncosted Perpetual Inventory**

1. A noncosted perpetual inventory system records and maintains a daily balance for each item in stock. Items received are added to the balance on hand; the items withdrawn are subtracted. A manual or computerized system may be used to maintain a noncosted perpetual inventory system. To maintain a manual noncosted perpetual inventory, adhere to the following procedures listed below:

a. Complete an inventory page/card for each form and pack of each food item in inventory. Record items

received, items issued, and the balance on hand. One card each would be used for the following:

- i. green beans, canned, whole, #10;
- ii. green beans, canned, cut, #10;
- iii. green beans, frozen, cut, 2# box; and green beans, frozen, cut, 20# box.

b. When beginning a perpetual inventory, record the date and number of single units on hand for each item on the first line.

c. As items are received, mark the unit prices on each container. Record on the inventory cards the date and number of single units and add this amount to the balance on hand to calculate the current balance.

d. As items are issued or withdrawn from inventory, record the number and subtract this amount from the balance on hand to calculate the current balance. A listing of all items withdrawn from the inventory must be made each day so that those items will be posted correctly to the perpetual inventory. The manager may use either the food production record or an issue/withdrawal form to record the items. The State Agency provides a sample daily issue/withdrawal form. It is not necessary to cost on the withdrawal forms. Systems may elect to use the food production record as the withdrawal record if all items withdrawn daily are listed.

e. At the end of the month, compare the perpetual inventory of each item on hand with the counts obtained from the physical inventory. (Refer to "Costed Physical Inventory" in this Section for procedures to reconcile inventories.)

B. To maintain a computerized noncosted perpetual inventory, adhere to the procedures listed below.

1. Complete a computer inventory record for each form and pack of each food item in inventory.

2. As items are received, enter the date and number of single units received into the computer record.

3. As items are issued or withdrawn from inventory, enter the date and number of single items issued or withdrawn into the computer record.

4. At the end of the month, compare the perpetual inventory balance of each food item to the counts obtained from the physical inventory. (Refer to "Noncosted Physical Inventory" in this Section for procedures to reconcile inventories.)

#### E. Costed Perpetual Inventory

1. A costed perpetual inventory system records and maintains a daily balance and value for each item in stock. A manual or computerized system may be used to maintain the costed perpetual inventory. The items received and their costs are added to the balance on hand; and as items are withdrawn, the number and costs are subtracted.

2. To maintain a manual costed perpetual inventory, adhere to the procedures listed below.

a. Complete an inventory page/card for each form and a pack of each food item in inventory. The State Agency provides a sample perpetual inventory card. One card would be used for each of the following:

- i. green beans, canned, whole, #10;
- ii. green canned, cut, #10;
- iii. green, frozen, whole, 2# box; and
- iv. green, frozen, cut, 20# box.

b. When beginning a perpetual inventory, record the date and number of single units on hand for each item on the

first line. Also record the unit cost and total value of the item.

c. As items are received, record the date and number of single units and price per unit. Add this number of single units received to the balance on hand to calculate the current balance. When the items received have a different unit price, do not add to the balance on hand, but record the total amounts at each price. Multiply the unit price(s) by the balance(s) on hand to calculate the current total value.

d. As items are issued or withdrawn from inventory, record the number at each price and subtract these amounts from the balance(s) on hand to calculate the current balance(s) and the new total value.

e. At the end of the month, compare the perpetual inventory balance of each item on hand with the counts obtained from the physical inventory. (Refer to "Noncosted Physical Inventory" in this section for procedures to reconcile inventories.)

F. To maintain a computerized costed perpetual inventory, adhere to the procedures listed below.

1. Complete a computer inventory record for each form and pack of each food item in inventory.

2. As items are received, enter the date and number of single units received and price per unit into the computer record.

3. As items are issued or withdrawn from inventory, enter the date and number of single items issued or withdrawn into the computer record.

4. At the end of the month, compare the perpetual inventory balance of each food item to the counts obtained from the physical inventory. (Refer to "Noncosted Physical Inventory" in this Section for procedures to reconcile inventories.)

#### G. Cost of Food Used

1. The cost of food used each month is calculated from the value of costed inventories for all schools. The SFA has the option of costing either the physical or the perpetual inventories in order to determine the dollar value of the ending inventories.

2. At the end of the month, the cost of food used at each school for the month is calculated from the value of the beginning inventory plus the value of foods received, plus/minus any inventory adjustments and/or transfers, minus the ending inventory. The cost of food used is then adjusted to reflect the value of the inventory error from the previous month, if applicable. The State Agency provides a copy of The Cost of Food Used Worksheet. At the end of each fiscal year, the cost of food used for all schools is consolidated and reported on the District Income and Expense Report.

3. If the Cost of Food Used Worksheet is computer generated, it should capture all of the information that is on the Cost of Food Used Worksheet provided by the State agency.

#### H. Property Management of Equipment

1. Adequate maintenance procedures shall be implemented to keep equipment in good condition.

2. Property records shall be maintained accurately. Records for each item of equipment with a unit acquisition cost of \$1000 or more, with a useful life of one year or more,

and purchased in whole or in part with school food service funds shall include the items listed below:

- a. a description of the equipment including manufacturer's serial number;
- b. an identification number, such as a school food service tag number or the manufacturer's serial number;
- c. the acquisition date and unit acquisition cost;
- d. the source of funding;
- e. the location, use, and condition of the equipment, and the date the information was reported; and
- f. all pertinent information on the ultimate transfer, replacement or disposal, including disposal date and sale price.

4. Every year a physical inventory of school food service equipment with a unit acquisition cost of \$1000 or more with a useful life of one year or more shall be conducted and the results reconciled with the property records to verify the existence, utilization, and continued need. Any discrepancies between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the differences.

5. Adequate safeguards to prevent loss, damage, or theft of equipment shall be used. Any loss, damage, or theft of equipment shall be investigated and fully documented. The State Agency may require a report of the circumstances.

I. Disposition of Equipment

1. The SFA may trade in existing equipment when acquiring replacement equipment.

2. Equipment that is antiquated or not useable shall be disposed of in the following manner. (This procedure may also be used when a SFA ceases to participate in the NSLP or SBP.)

a. The SFA shall actively seek to recover the highest possible return on equipment that is in good operating condition. Selling procedures shall be established to provide for adequate competition and for the highest possible return. To ensure maximum competition, the SFA shall publicly advertise and sell them to the highest bidder. All income shall be deposited in the school food service account.

b. If the SFA is unable to sell used equipment, efforts should be made to transfer the equipment to:

- i. projects or programs supported by other Federal grants or assistance agreements; or
- ii. other programs that provide meals to children.

c. When unable to sell or transfer inoperable or used equipment, the SFA should attempt to sell the equipment to buyers of scrap materials following procedures that will provide maximum competition and result in the highest possible return to the school food service program.

d. If efforts to sell or transfer used equipment fail, the SFA may use school food service funds to have the equipment removed from school food service facilities and transported to the nearest legal disposal site.

3. For the disposal of equipment during bankruptcy proceedings, the SFA shall contact the Division of Nutrition Assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2111 (December 2001).

**§325. Donations**

A. Donations of food, equipment, and money may be accepted to supplement the school food service program. These donations shall remain the sole property of the school food service program; they must be received without solicitation or promise of favors to the donor. Donations may not be made by potential vendors.

B. To be used as reimbursable food components/items, donated food should 1) be a required food/menu item as specified by the menu planning option chosen, 2) be listed in the USDA Food Buying Guide or have a Child Nutrition (CN) label or a certified product formulation statement, and 3) meet sanitation standards required by the Louisiana Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2113 (December 2001).

**§327. Retention of Records**

A. All records, reports, inventories and source documents must be retained for a period of three years after submission of the final Claim for Reimbursement for the fiscal year to which they pertain. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed. Records for equipment with a unit acquisition cost of \$1000 or more, with a useful life of one year or more, and acquired in whole or in part with school food service funds shall be retained for three years after its final disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2113 (December 2001).

**§329. Access to Records**

A. USDA and the Comptroller General of the United States, the Louisiana Legislative Auditor, LDOE, or any of their authorized representatives shall have the right of access to any books, documents, papers, or other records of the SFA which are pertinent in order to make audit examination, excerpts, and transcripts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2113 (December 2001).

**§331. Internal Control**

A. Effective control and accountability for all program funds and for all real and personal property assets shall be maintained. SFAs shall adequately safeguard all such assets and shall ensure that they are used solely for authorized program purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2113 (December 2001).

### §333. Audit Requirements

A. SFAs that expend a total of \$300,000 or more a year in Federal funds for all programs shall have a single or program-specific audit conducted in accordance with provisions of Circular A-133 Revised 1997: Audit of States, Local Governments, and Non-Profit Organizations. Louisiana Revised Statutes 24:513 also require governmental audits and examinations of quasi-public entities as specified therein.

B. The SFA should make arrangements for an annual audit in accordance with Louisiana Revised Statutes 24:513. The audit shall be made by an independent auditor [the State Legislative Auditor or a Certified Public Accountant who is licensed to practice in Louisiana and who meets the independence standards specified in Generally Accepted Government Auditing Standards (GAGAS)]. The selection of an independent auditor is the SFA's responsibility, although the Legislative Auditor or the State Agency can provide advice to those SFAs that have little or no experience in arranging for audit services.

C. In selecting an auditor, it is not necessary to implement a formal bid process, although the services must be obtained in an efficient and economical manner that provides maximum open and free competition. The SFA must provide an opportunity for small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals to submit proposals for the audits. The engagements are subject to oversight and approval by the Legislative Auditor.

D. The auditor must evaluate internal controls including an evaluation and written report on the SFA's internal accounting and administrative control systems over its Federal financial assistance programs. The auditor must also determine whether the SFA has complied with laws and regulations governing the Federally assisted program(s). The Auditor shall determine whether the financial statements and supplementary schedule of Federal awards of the SFA present fairly its financial position, and whether the results of its financial operations are in accordance with generally accepted accounting principles. The audited financial statements/schedules must provide details relating to the financial position and results of operation of the Child Nutrition Programs.

E. One copy of the audit reports shall be sent to the Office of the Louisiana Legislative Auditor and two copies shall be sent to the Bureau of Internal Auditing, LDOE. Recipients of \$300,000 or more in Federal funds shall also submit a copy of the audit report and Form SF-SAC: Data Collection Form within 30 days after its issuance to a central audit report clearinghouse. The address of the clearinghouse is:

Single Audit Clearinghouse  
Bureau of the Census  
Data Preparation Division  
1201 E. 10th Street  
Jeffersonville, Indiana 47132

F. A single audit report is due 9 months following the end of the SFA's fiscal year. The State Agency is responsible for resolving findings resulting from the audit. Failure to comply with the audit requirements can result in suspension or termination of the Agreement between LDOE and the SFA.

G. The SFA's prorata share of expenses of the single audit is an allowable expense. In agency-wide audits, the cost of the audit should be shared by the various funds audited on a per-hour basis. If total federal funding is less than \$300,000, no part of the audit may be charged to the non-profit school food service account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2114 (December 2001).

### §335. Computing Average Meal Cost

A. Each school system must use the average meal cost from the prior school year to establish meal charges for the current year of operation. If the school system sells extra food items, the cost and income generated from the extra sales must be taken into consideration when calculating the average cost of producing a breakfast and a lunch.

#### B. Computing Average Meal Cost For the Year

1. The following procedure is used to compute the average cost of lunch, breakfast and snacks.

a. Determine the total lunches served during the prior year.

b. Determine the total breakfasts served during the prior year and divide by two. Add this number to the total lunches served for the prior year.

c. Determine the total snacks served during the prior year and divide by five. Add this number to the total lunches and breakfast served for the prior year.

d. If the school system sold extra food items, divide the extra sales income for the year by the meal equivalent factor (which is the average cost of the meal). (Refer to §539: Meal Equivalent Factor.)

e. Add the meal equivalents obtained in Step d to the number of lunches, breakfasts and snacks served in Step c. The sum of these numbers will be the number recognized as total meals served for the year.

f. Divide the total expenses for the prior school year by the total number of meals served in Step e to obtain the average lunch cost.

g. Divide the average lunch cost obtained in Step f by two to obtain the average breakfast meal cost.

h. Divide the average lunch cost obtained in Step f by five to obtain the average snack cost.

#### C. Calculating Average Meal Cost For A Month

1. Some SFAs may want the average meal cost data on a more frequent basis. To calculate the average meal cost for each month, the SFA shall follow the same procedures as outlined in computing meal costs for the year, with the exception of using individual month expenses and meal counts. Extra sales income for the same time period or month shall be used to calculate the monthly meal equivalents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2114 (December 2001).

### §337. Establishing Meal/Snack Charges and Extra Sales Prices

#### A. Meal and Snack Pricing Procedures

1. School systems shall use the following methods to calculate meal and snack charges.

- a. Student
  - i. Full-Price Student Meals
    - (a.) Different meal charges may be established for elementary and secondary grade levels and for variation meals.
  - ii. Reduced Price Student Meals
    - (a.) The price charged for a reduced price lunch shall be less than the full price of the lunch and shall be 40¢ or lower. The price charged for a reduced price breakfast shall be less than the full price of breakfast and shall be 30¢ or lower.
    - (b.) The price of a reduced price meal may vary within the maximum limit of 40¢, provided there is no discrimination in the establishment of the charge. For example, it is permissible for the charge in high schools to be higher than the charge in elementary schools.
- b. Student Snacks
  - i. Full Price Student Snacks
    - (a.) A student not qualifying for the free rate shall pay the snack price established by the SFA.
  - ii. Reduced Price Student Snacks
    - (a.) The amount charged for a reduced price snack shall be less than the full price of the snack and shall be 15¢ or lower.
- c. Nonstudent Meals and Snacks
  - i. The average cost of the lunch, breakfast, and snack from the prior school year is used to determine meal/snack charges for non-student meals/snacks. (Refer to §335: Computing Average Meal Cost for the Year.) Neither Federal Reimbursement nor children's payments can be used to subsidize nonstudent meals/snacks. Persons eligible to purchase meals/snacks in the school food service department are paid employees of the local school system; and visitors working with the school program such as contractors, volunteers, parents, guardians, grandparents, siblings, and non-school age children. Federal Reimbursement received by schools is based on the number of lunches, breakfasts, and snacks served to students; no reimbursement or commodities are provided for meals served to adults, visitors, or other nonstudents.
- d. School System Employee Meals and Snacks
  - i. The minimum charge for employee meals shall be the average cost of the meal in the school system plus the value of USDA entitlements and bonus donated foods used to prepare the meal. The minimum snack charge for employees shall be the Federal free snack reimbursement rate.
    - (a.) The revenues listed below may be used to defray paid employee meal costs.
      - (i.) full or partial adult revenues;
      - (ii.) State or local Minimum Foundation Funds (MFF) contributions from the general fund which are above the State revenue match requirement; and
      - (iii.) payroll funds and/or funding from voluntary agencies.
- e. Other Non-student Meals and Snacks
  - i. All visitors shall pay the average cost of the meal in the school system, plus the per-meal value of USDA commodities. For snacks, the minimum charge for a visitor shall be the Federal free snack reimbursement rate. Visitors that are required to pay this price include parents and non-school age children.

- f. Contract Meals
  - i. A school system that contracts to provide meals to other institutions and/or non-school programs such as Head Start, daycare and elderly feeding must charge, at a minimum, the average meal cost plus the current per meal value of USDA commodities, which is the at-cost price. An additional charge for administrative expenses, such as transportation, packaging, etc., and a profit margin may be added at the discretion of the school system. A copy of each year's written contract or agreement shall be maintained on file in the central office for review or audit.
- g. Meal Payment Policies
  - i. In accordance with Act 209 of the 1956 regular session of the Louisiana Legislature, each school shall post meal charges in a prominent place in the food service area and all participants shall pay the appropriate cost. The students' ability to pay is determined through the free and reduced price meal application process. Those students not eligible for free meals must pay for their meals at the prices established for full price and reduced price students. Regulations do not prohibit a school system from denying a meal to paying students who have not paid for the meal. All eligible adults except site-based food service employees and certain volunteer personnel in the individual school kitchens/cafeterias shall pay for their meals.
- h. Collection Policies
  - i. Under-collections for the sale of meals and snacks will necessitate an audit exception; furthermore, any under-collection must be recovered from other sources and deposited in the school food service account. Although non sufficient funds (NSF) checks given to cover the cost of student meals are considered a part of the total cost of producing meals, each SFA must establish a policy regarding the handling of NSF checks. The system should limit the number of NSF checks a household may issue before requiring payment by cash or money order. When the bank returns an NSF check, the household should be required to pay, in cash, the amount of the check and the bank handling charge. When a tuition fee in nonpublic schools includes the costs of school lunch, breakfast, snack or milk, these funds shall be collected and deposited to the school food service account as received.
    - i. Pricing for Extra Sales Items
      - i. One of the purposes of implementing extra sales is to generate additional income, which can help to finance the school food service program. The full cost of producing the extra sales items, including food, labor, supplies, etc., plus a profit shall be realized. No item may be sold at a price that results in a loss to the food service program. Proper accountability for extra sales shall be maintained and all income received must accrue to the school food service account.
      - ii. Several factors should be considered and identified when establishing the sale price of an extra item:
        - (a.) the raw food cost of the item including the costs of purchased ingredients and the value of USDA commodity ingredients;
        - (b.) labor expenses for the preparation of extra items;
        - (c.) container costs, if using disposables;

(d). other costs, such as administrative expenses, cleaning supplies, energy costs, and wear and tear on equipment used in the preparation of extra items;

(e). the profit margin desired;

(f). the costs of similar items in local eating establishments; and

(g). the students' ability to pay.

iii. The SFA may find it easier to implement extra sales if an average sale price for each category of menu items is established: for example, one average price is calculated for Entree Combos, Vegetable/Fruits, Desserts, Beverages, etc.

iv. Averaging sale prices will result in more profit on some items than others. The school system, after determining which are its high-profit items, may want to spend more time in merchandising or promoting these items. The school will want to limit the number of times expensive items are offered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2114 (December 2001).

### **§339. Meal Equivalent Factor**

A. SFAs may sell food items to individuals who have received a complete meal. Each school system that sells extra food items, including milk, juice, and bottled water, must establish a meal equivalent factor.

B. The meal equivalent factor for each SFA is defined as the average cost of the meal for the previous school year.

C. The meal equivalent factor is reported at the end of each fiscal year on the District Income and Expense Report. The meal equivalent factor will be used to convert the revenue received from extra items sold into meal equivalents. To calculate meal equivalents for the year, the SFA should divide the total income from extra sales for the year by the average meal cost (meal equivalent factor).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2116 (December 2001).

### **§341. Claim for Reimbursement**

A. Each SFA shall submit a monthly Claim for Reimbursement in order to receive reimbursement for meals served. The Claim for Reimbursement/System Participation Data and Claim for Reimbursement/School Participation Data are forms used to report the claims data. The District Income and Expense Report shall be submitted by July 25 after the close of each fiscal year on June 30th. These forms and instructions are provided by the State agency. SFAs that wish to design their own claim forms shall obtain prior written approval from the State Agency to ensure that the order of reporting and the information being reported are correct.

#### **B. Reimbursement Procedures**

1. Federal Reimbursement for meals served to eligible students shall be paid at the current assigned rates and shall be paid only for lunches, breakfasts, and snacks meeting requirements. Reimbursement shall be made for only one lunch, breakfast, and snack served per child per day and cannot be made for any meals served to adults.

2. The State Agency must be contacted in advance regarding reimbursement for meals served for any days or extended summer sessions beyond the normal school year.

3. Participation data must be reported on the single calendar month basis: for example, if the SFA serves meals for fewer than ten days in August, it must submit a Claim for Reimbursement/System Participation Data and a Claim for Reimbursement/School Participation Data by September 10. Any corrections or revisions to the System Participation Data must be submitted along with the School Participation Data.

4. The Claim for Reimbursement system and school participation data shall be postmarked or submitted to the State Agency no later than 60 days following the last day of the month covered by the claim. Claims not postmarked and/or submitted within 60 days shall not be paid unless authorized by the State Agency. A one-time exception for late claim submission may be allowed by the State Agency every 36 months with proper written justification.

5. After the 60 day period, upward adjustments for underclaimed errors shall not be made unless authorized by the State Agency following a review or audit. Downward adjustments for overclaimed errors shall always be made regardless of when the error is discovered.

6. A valid Claim for Reimbursement has not been submitted until the District Participation Data and the Claim for Reimbursement, School Participation Data have been accurately completed and received by the Division of Nutrition Assistance.

7. In submitting a claim, the authorized SFA representative shall certify that the claim is true and correct, that records are available to support the claim, and that payment has not been received. Reporting of income and expenditures shall be in accordance with the system of accounting established by the State Agency.

#### **C. Claim for Reimbursement, District Participation Data**

1. The District Participation Data form shall be submitted by the 10th of the month following the month of operation. Monthly participation data from each school covered by the claim, including satellite schools, shall be reported on this form.

a. The total number of free, reduced price and paid student meals/snacks served at each school shall be reported.

b. The current number of free and reduced price eligibles as well as the number of days that meals/snacks were served shall also be reported. This form shall also report the total number of meals/snacks, by category, served in all schools under the jurisdiction of the SFA during the month of operation.

c. The District Participation Data form includes general data such as the number of schools/sites participating in the NSLP SBP, and snacks; the number of days that meals/snacks were served; the average daily student participation; the average daily student attendance; and the number of approved free and reduced price applications/direct certification determinations for the month of operation.

d. The form shall be resubmitted only if an error in the report submitted on the 10th has been discovered. In this event, the District Participation Data form should be resubmitted and the "Amended" box checked.

#### **D. Edit Check**

1. Prior to the submission of the monthly claim, an edit check of the number of free, reduced price and paid meals claimed must be performed to ensure the accuracy of data reported on the claim for reimbursement. Instructions to complete the edit check can be found on the instructions for the Daily Participation Report.

#### E. District Income and Expense Report

1. The District Income and Expense Report shall be submitted by the 25th of the month following the close of each fiscal year on June 30th. This form shall be used to report the total annual income and expenses for the SFA. Net cash resources shall also be reported on the District Income and Expense Report.

#### F. Income/Reimbursements

1. All income collected/received for the fiscal year (July-June) by the SFA shall be reported. All income from extra sales shall be separated from other payments so that the total number of meal equivalents may be calculated. The Federal Reimbursement earned and the State funds received for the fiscal year shall be reported. Any funds received from loans to the school food service program during the fiscal year are reported as "Income."

#### G. Commodities Received

1. The value of USDA Commodities received during the fiscal year, the Federal Reimbursement earned, and the State funds received for the fiscal year shall be considered income and reported annually on the District Income and Expense Report. (Refer to the instructions on the District Income and Expense Report for guidance in reporting.)

#### H. Expenses

##### 1. Food Used

a. The Cost of Food Used Worksheet is prepared monthly to calculate the actual cost of food used in every school that prepares food. At the close of each fiscal year, the cost of purchased food used in all schools for the fiscal year, the Federal Reimbursement earned, and the State funds received for the fiscal year shall be tabulated and reported as food used in the expense section of the District Income and Expense Report. The Cost of Food Used form and instructions are provided by the State Agency.

##### 2. Labor and Benefits

a. Total expenses for labor to the school food service program for the fiscal year shall be reported in the fiscal year the expenses are incurred. SFAs must report on the June District Income and Expense Report, the July and August labor expenses for employees who earn salaries during the school year but who are paid over a 12 month period. An accounts payable ledger should be established to justify the payment of these wages during the nonoperational summer months. Administrative salaries earned and paid on a 12 month basis shall be reported in the month paid.

##### 3. Equipment

a. The costs of equipment shall be reported as expenses in the fiscal year that the equipment is received and invoiced. Any outstanding invoices on equipment received will be reported as an expense in the fiscal year received, and encumbered as an accounts payable. These expenses include costs for both large and small equipment.

##### 4. Loans

a. In the event the food service account must borrow operational funds from the General Fund to meet expenses, the repayment of this loan is an allowable

expense. If the SFS does not have the financial resources to repay the loan within the same fiscal year, the SFS is no longer obligated to repay the general fund. (Refer to §301: State Assistance, and §317: Repayment of Loans.) Revisions should be made to the SFS account and the general fund accounting ledger to off-set the loan and to report it as an expense.

##### 5. Other Direct Costs

a. The costs of utilities, such as gas, electricity, and telephone, are reported as expenses in the fiscal year they are invoiced. All other direct costs, such as utensils, paper, cleaning supplies, training expenses, etc., are reported in the month the items are received or incurred. The State Agency recommends that these costs not exceed 20 percent of the total expenditures.

#### I. Reporting Refunds/Rebates

##### 1. Student Refunds

a. Any unused prepayment for student meals is the property of the family/household making the payment.

b. The family must be notified of the unused meal prepayment amount and given an opportunity to collect the funds. The refunds for these student meals would be subtracted from income. If the family does not collect the refund, the meal prepayment may be carried forward to the next school year.

##### 2. Product Rebates

a. A refund/rebate for a product should not be shown as income, but should be subtracted from the original cost of the item or the total purchases.

##### 3. Reporting Thefts

a. The theft of money, USDA commodities, or purchased food, etc. should be reported immediately to the local law enforcement agency. The amount of money stolen should be reported on the District Income and Expense Report as "Other Direct Costs," and listed as "Theft." Any money recovered in the fiscal year that it was stolen shall be applied to the reduction of the loss. Any outstanding amount recovered in a subsequent year shall be reported in the fiscal year of recovery as "Other Income," and listed as "Recovery of Theft."

##### 4. Net Cash Resources

a. The net cash resources of the SFA shall be reported on an annual basis each year on the Income and Expense Report. Residential Child Care Institutions should not complete this section of the Income and Expense Report. The purpose of this reporting is to ensure that the SFA maintains a nonprofit status. (Refer to §305: Nonprofit Status/Net Cash Resources, for further information.) To calculate net cash resources, adhere to the procedures listed below.

i. Report any cash on hand in school cafeterias and/or the central office that has not been deposited.

ii. Add the latest reconciled operating-fund bank balance.

iii. Add the total value of investments including interest earned, in certificates of deposit, money market funds, etc.

iv. Add the total of any reserve accounts for self-insurance.

v. Add the total of any reserve accounts for equipment.

vi. Add the total of any accounts receivable such as outstanding reimbursement checks.

vii. Deduct from the subtotal any payables. Examples of payables are salaries earned during the nine months of operation but remaining to be paid during the summer and any unpaid bills for the current fiscal year. Unpaid telephone and utility bills are not reported as accounts payable because they are reported as expenses only when invoiced. Any item reported on the June Income and Expense Report as accounts payable shall also be reported in the appropriate category of the Claim for Reimbursement, System Data Report as an expense and shall not be reported on future claims.

viii. Total the value from all commodity invoices received during the fiscal year and report in the income section of the System Data Report.

b. As of June 30, the District Income and Expense Report may differ from the annual financial statements included in the general purpose financial statements of the school board. This difference is due to the fact that the District Income and Expense Report is prepared using a method similar to cash flow, while the annual financial statement of the school board is prepared on a modified accrual or accrual basis of accounting.

c. The State Agency will verify net cash resources when audits are conducted. Adjustments will be made if necessary to reconcile these figures.

#### 5. School Participation Data, SFS-8C

a. The School Participation Data Report shall be submitted by the 10th of the month following the month of operation. Monthly participation data from each school covered by the claim, including satellite schools, shall be reported on this form. The total numbers of free, reduced price and paid student meals/snacks served/at each school shall be reported. The number of currently approved free and reduced price meal applications/direct certification determinations and the number of days that meals/snacks were served are also reported. If any information submitted on the School Participation Data changes the Claim for Reimbursement, System Participation Data and an amended Claim for Reimbursement must be submitted along with the School Participation Data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2116 (December 2001).

#### §343. Severe-Need Breakfast

A. The USDA established severe-need funding for breakfast for schools serving a large percentage of needy students with the idea that the increased funding would permit the serving of more nutritious breakfasts. Severe-need funding is approved on a school-by-school basis; it is restricted to the cost of producing and serving breakfast. Within the SFA, some schools may be eligible to apply for severe-need funding and others may not.

B. SFAs may apply to receive severe-need funding for schools meeting the severe-need criteria. Additional recordkeeping will be required because each school approved must document breakfast expenses and must demonstrate that expenses equal or exceed the severe-need reimbursement received.

C. The State Agency shall pay the severe-need reimbursement rate throughout the school year to schools approved to participate. At the end of the school year, the SFA must provide documentation of breakfast expenses for each school approved. If expenses do not equal or exceed the severe-need reimbursement received, the SFA shall be required to return the excess reimbursement.

D. Each school claiming severe-need funding, at a minimum, must have breakfast expenses for free and reduced price meals for the year totaling the regular breakfast reimbursement.

#### 1. Criteria for Application

a. Each school must meet the criteria provided below.

i. Forty percent or more of the lunches served to students during the second preceding year shall have been served free or at a reduced price.

ii. The reimbursement rate per meal established by the USDA is insufficient to cover the costs of the school's breakfast program.

iii. The school is participating in or desiring to initiate a breakfast program.

#### 2. Application Form

a. Application for severe-need rates for schools already on the breakfast program must be made by August 15 of each school year. Application shall be made by completing the Application for Severe Need Breakfast Reimbursement, and submitting it to the Division of Nutrition Assistance. This form is available from the State Agency.

b. Application for severe-need rates for schools now eligible for severe-need breakfast programs may be made by completing Sections 4 and 16 of the Application for Participation. This application is available from the State Agency.

#### 3. Documentation of Expenses

a. Each school approved for severe-need funding must document the actual yearly cost of producing and serving free and reduced price breakfasts on the documentation of Annual Breakfast Expenses for Severe Need Funding. This form is provided by the State Agency.

#### 4. Food Cost

a. Food cost for breakfast may be established by one of the two methods listed below:

i. maintaining separate records for the cost of food used for breakfast throughout the school year; or

ii during October, maintaining separate records for the cost of food used and calculating the percentage of breakfast food cost to total food cost for October. This percentage shall then be applied to the total food cost for that school for the year. This information shall be reported on the Severe Need Expense Allocation Worksheet.

#### 5. Labor Cost

a. Labor costs, including benefits, are calculated on a per school basis; they are established by recording the amount of labor hours for breakfast in October. Each employee must document breakfast labor hours on the Employee's Time Allocation Report for Severe Need Breakfast, and, if applicable, the Employee's time Allocation Report For Severe Need Breakfast Inventory Duties,. The Employee's Time Allocation Report for Severe-Need



Breakfast is an optional form to use in calculating the time spent on inventory for breakfast related duties.

b. The total hours for breakfast is calculated on the Severe-Need Expense Allocation Worksheet, to determine the percent of the total labor cost for the year. This form shall be provided by the State Agency.

6. Other Costs

a. Other costs shall be allocated to the breakfast program by applying the percent established for labor hours to the total other costs for the year. (Refer to the Severe-Need Expense Allocation Worksheet, and Documentation of Annual Breakfast Expense for Severe-Need Funding.)

7. Reimbursement Payments

a. For any school year, severe need reimbursement payments shall be the lesser of the following:

i. the cost of providing free and reduced price breakfasts in eligible schools less the reduced price payments received by such schools; or

ii. the number of free and reduced price breakfasts, respectively, served to children in eligible schools, multiplied by the applicable severe need reimbursement rates.

b. Schools approved for severe-need funding shall file claims monthly on the District Data Report Form and will receive funding on a monthly basis. Documentation of each school's breakfast expenses for the year must be reported on the Annual Breakfast Expenses For Severe Need Funding and submitted with the June District Income and Expense Report. A separate Annual breakfast Expense for Severe-Need Funding form must be completed for each school.

c. Refund Payments for Excess Reimbursement

1. Refunds must be made to the State Agency for each school that did not have expenses equal to or greater than the severe-need funding received. Refunds shall be made on the difference between the severe-need reimbursement received and the greater of:

a. the actual cost of producing free and reduced price breakfasts less the payment received for reduced price breakfasts; or

b. the regular breakfast reimbursement. A refund check payable to the LDOE in the appropriate amount must accompany the June Income and Expense Report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2118 (December 2001).

**§345. Residential Child Care Institutions**

A. Residential Child Care Institution (RCCIs) have the responsibility for the care and feeding of institutionalized children seven days per week including three meals plus snacks. RCCIs that operate on a continuing basis may receive reimbursement for eligible meals served any day that the institution has been approved to operate its services.

B. Expense Allocation. Because of the complexity of serving three meals per day plus snacks, certain modifications to recordkeeping and financial reporting must be made. Program expenses are allocated or prorated as described in §349: Recordkeeping For RCCIs and Boarding Schools.

C. Severe-Need Breakfast

1. RCCIs meeting the severe-need criteria may apply for severe-need funding. RCCIs are required to meet the same eligibility criteria as public or nonpublic schools. Application shall be made by completing the Application for Severe-Need Breakfast Reimbursement and submitting it to the State Agency by July 1 of each school year. This form is available from the State Agency. (Refer to §343: Severe-Need Breakfast, for eligibility requirements.)

2. RCCIs approved for severe-need funding shall receive the severe-need breakfast reimbursement rate throughout the school year. At the end of the school year, the RCCIs claiming severe-need must provide documentation of expenses for the breakfast program. If expenses do not equal or exceed the severe need reimbursement received, the RCCI shall be required to pay back the excess reimbursement, which is the difference between the severe-need reimbursement and the greater of:

a. the cost of producing free and reduced price breakfasts; or

b. the regular breakfast reimbursement.

3. RCCIs approved for severe-need funding shall be permitted to allocate expenses to the breakfast program. This approval is accomplished by the RCCIs completing the Documentation of Annual Breakfast Expenses For Severe-Need Funding for RCCIs. This form shall be completed and submitted to the State Agency with the June claim for reimbursement. If excess reimbursement has been received, a repayment check made payable to the LDOE must accompany the June claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2119 (December 2001).

**§347. Boarding Schools**

A. Eligibility

1. Boarding Schools operating under public or nonprofit private ownership in a single building or complex of buildings are eligible to participate in the NSLP and SBP if they are exempt from tax under the Internal Revenue code as amended.

2. Boarding schools serving three meals per day, seven days per week, can claim reimbursement for only one lunch and/or breakfast per child served on regular school days, five days per week. If the weekend is considered an extension of the weekday educational activities, weekend meal reimbursement may be received if prior approval has been granted from the State Agency.

B. Expense Allocation

1. The same regulations that apply to public schools with regard to the operation of the NSLP and SBP also apply to boarding schools. However, because of the complexity of serving three meals per day plus snacks, certain modifications to recordkeeping and financial reporting must be made. Boarding schools shall follow the same procedures as RCCIs in recordkeeping. Program expenses are allocated or prorated as described in §349: Recordkeeping for RCCIs and Boarding Schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2119 (December 2001).

### **§349. Recordkeeping for RCCIs and Boarding Schools**

A. RCCIs and boarding schools shall follow a modified financial reporting and recordkeeping procedure in submitting Claims for Reimbursement. Monthly program expenses for reimbursable breakfasts, lunches, and snacks served five days or, if eligible, seven days per week can be allocated or prorated according to the monthly percentage of reimbursable meals to nonreimbursable meals. A daily participation report of all meals and snacks served shall be maintained as well as the number of reimbursable breakfasts, lunches and snacks served. The Expense Allocation Worksheet shall be used to allocate expenses to be reported on the Claim for Reimbursement, District Income and Expense Report. These forms are provided by the State Agency.

B. RCCIs and boarding schools must abide by the policies listed below.

1. Allowable/Nonallowable Expenses
  - a. The same policy on allowable/nonallowable expenses for the breakfast and lunch programs that apply to school programs shall apply to RCCIs and boarding schools. (Refer to, §317: Allowable/Unallowable Program Expenses.)
2. Daily Food Production Form
  - a. Separate Daily Food Production Forms, for breakfast, lunch, and snacks shall be maintained.
3. Accountability of Meals/Snacks
  - a. There shall be a system to count and document the number of reimbursable meals/snacks served each day. In addition, the number of suppers, nonreimbursable snacks, and nonreimbursable breakfasts and lunches served must be recorded daily in order to allocate costs for the school food service program properly. These participation records are maintained on the RCCI Daily Participation Report.
4. Financial Accountability
  - a. RCCIs and boarding schools may keep a separate bank account for food service revenue and expenses, Since food and supplies must be purchased for suppers and nonreimbursable snacks/meals, some RCCIs and boarding schools may prefer to combine monies received and expended for the subsidized meals with the institutions' or schools' general funds. In such instances, separate cost centers for food service revenue and expenses shall be maintained. The records shall show that the expenditures for production and service of the subsidized breakfasts, lunches and snacks meet or exceed the reimbursement received for such meals.
5. Cost of Food Used
  - a. RCCIs and boarding schools may use purchased food invoices to obtain the cost of food used for the month of operation. This amount shall then be transferred to the Expense Allocation Worksheet, to allocate food cost to the school food service program.
6. Inventories
  - a. Any RCCI or boarding school that withdraws from a central warehouse must maintain a perpetual inventory of warehouse foods. (Refer to §323: Costed Perpetual Inventory, for more information.)
7. Source Documents
  - a. RCCIs and boarding schools must abide by the same policies as school programs in relation to source documents. (Refer to §321: Source Documents, for more information.)

### 8. Property Management

a. The same policies on property management of equipment purchased with program funds that apply to schools apply to RCCIs and boarding schools. (Refer to the §323: Property Management Requirements for more information.)

### 9. Retention of Records

a. The same policies on retention of records that apply to schools apply to RCCIs and boarding schools. (Refer to §327: Retention of Records, for further information.)

### 10. Access to Records

a. The same policies relative to access of records that apply to schools apply to RCCIs and boarding schools. (Refer to §329: Access to Records, for more information.)

### 11. Internal Control

a. Effective control over and accountability for all program funds, and for real and personal property assets shall be maintained. RCCIs and boarding schools shall adequately safeguard all such assets and shall ensure that they are used solely for authorized program purposes. (Refer to §531, Section 3.16, "Internal Control," for more information.)

### 12. Audit Requirements

a. RCCIs and boarding schools expending a total of \$300,000 or more a year in Federal funds for all programs shall have a single or program specific audit conducted in accordance with the provisions of Circular A-133. (Refer to §333: Audit Requirements, for more information.) The cost for any audits performed of RCCIs or boarding schools in which total federal funds expended in a year are less than \$300,000 may not be paid from Federal school food service program funding.

### 13. Nonprofit Status

#### a. Residential Child Care Institutions

i. The nonprofit status of a residential child care institution is ensured when the cost of providing meals to eligible children equals or exceeds funding received by the program from Federal and/or State sources. (Refer to §305: Nonprofit Status/Net Cash Resources, for further information.)

### 14. Boarding Schools

a. Boarding schools shall maintain a nonprofit school food service program; they must observe and follow the same limitations on the use of nonprofit school food service revenues as public and nonpublic schools. (Refer to §305: Nonprofit Status/Net Cash Resources, for further information.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2120 (December 2001).

### **§351. Resolution of Financial Obligations Established by Program Reviews, Audits, or Other Compliance Reviews**

A. Fiscal Action. A School Food Authority that fails to implement corrective action as required in the State Agency's written notification after any compliance review shall be subject to the following.

1. All or a part of the SFA's school food service program payments will be withheld until adequate

documentation of corrective action is received by the State Agency; or

2. Written notification to the SFA of required fiscal action, that will include:

- a. the amount, and reason for any payment due to the State Agency as a result of the compliance review;
- b. the amount owed shall be extended back to the beginning of the school year or that point in time in the current school year when the infraction first occurred;
- c. the amount owed may extend back to previous school years, as applicable, based on the severity and longevity of the problem;
- d. the appeal procedures. (Refer to the Louisiana Administrative Code, Title 28 EDUCATION, Part I. Board of Elementary and Secondary Education, Chapter 9, Subchapter B. State Plans, §943. Louisiana Child Nutrition Program Regulations, B.2. Louisiana Child Nutrition Programs Appeals Procedures).

3. Fiscal action includes, but is not limited to, the recovery of overpayment through direct assessment to the SFA, withholding from future Claims for Reimbursement, submission of a revised Claim for Reimbursement, correction of SFA records to ensure that unfiled Claims for Reimbursement are correct when filed, and disallowance of funds for failure to take corrective action.

B. Collection Procedures. All unpaid financial obligations that are assessed to a school food authority by the State Agency will be referred to the Louisiana Department of Justice (DOJ), Attorney General for collection, unless a satisfactory repayment schedule has been approved by the State Agency and payments are current.

1. All accounts referred to the DOJ Collections Section shall be subject to collection fees of thirty-three and one-third per cent (33 1/3 percent) in addition to the unpaid obligation due at the time of payment.

2. Once referral of an unpaid obligation is made to the DOJ, there will be no negotiation with the State Agency. All future correspondence related to the unpaid obligation will be with the DOJ Collections Section.

C. Resolution of SFA financial obligations will occur upon full repayment to the State Agency and/or all collection fees due the DOJ.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2120 (December 2001).

## **Chapter 5. Free and Reduced Price Meals**

### **§501. Purpose**

A. School Food Authorities (SFA) participating in the National School Lunch and Breakfast Programs and utilizing USDA commodities are required to serve free and reduced price meals to students determined eligible by the current Income Eligibility Guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2121 (December 2001).

### **§503. Policy Statement**

A. Requirements for a Pricing Program

1. A pricing program is one in which a separate identifiable charge is made for meals served to participants.

A permanent policy statement setting forth conditions for serving free and reduced price meals is entered into between the SFA and the State Agency. The documents listed below are part of the permanent agreement; they must be maintained, updated and submitted to the State Agency when adjustments or amendments are made and when requested by the State Agency.

a. a public release/announcement to the community of the SFAs meal prices for the upcoming school year and the intent to offer free and reduced price meals to eligible students;

b. income eligibility guidelines for the current school year and other documents or provisions that contain the eligibility criteria for free and reduced price benefits;

c. the free/reduced price application form with instructions (Single or Multi-child application);

d. the letter to households regarding application for benefits;

e. the direct certification notice, if applicable;

f. a copy of the notification letter to households regarding application for benefits (Meal Benefits Notice);

g. the collection procedure and accountability statement;

h. changes in approved collection procedures and/or collection procedures for new schools, if applicable;

i. the notice of selection for verification and other forms of supporting documentation to assist in verification which include the following:

i. acceptable verification documents;

ii. social security numbers;

iii. a letter for food stamp/Family Independent Temporary Assistance Program (FITAP) office to complete;

iv. a letter for social security office to complete;

v. a letter for employer to complete;

vi. letter for Social Security Office to complete;

j. the Benefit Change/Termination Notice;

k. the SFA letter to FITAP Office;

l. the SFA Guidance/Acceptable Income Documentation to assist household selected for verification in gathering income information;

m. verification documentation results;

n. verification summary report;

o. the applicable School Meals Initiative Option(s) for the current school year and applicable attachments demonstrating lunch/breakfast/snack patterns and Nutrient Standards;

p. the Authorized Representatives of the SFA;

q. the Warning Statement of Criminal Provisions and Penalties; and

r. changes made necessary by law/regulations.

2. A copy of the approved Free and Reduced Price Policy Statement shall be kept on file in the central office of the SFA. All personnel responsible for the administration and supervision of the program must be thoroughly familiar with the policy statement to ensure compliance with program regulations. In fulfilling its responsibilities, each pricing SFA:

a. agrees to serve meals free to children from families whose income is at or below the free scale of the Income Eligibility Guidelines;

b. agrees to serve meals at a reduced price to children from households whose income is at or below the reduced price scale of the Income Eligibility Guidelines;

c. agrees that there will be no physical segregation of or any other discrimination against any child because of inability to pay the full price of the meal; the names of the children eligible to receive free or reduced price meals shall not be published, posted, or announced in any manner; and there shall be no overt identification of any such children by use of special tokens, tickets or any other means. Further assurance is given that children shall not be required to do the following:

- i. work for their meals;
- ii. use a separate dining room;
- iii. go through a separate serving line;
- iv. enter the cafeteria through a separate entrance;
- v. eat meals at a different time, or eat a different meal;

d. agrees to maintain an up to date master list of all children eligible for free and reduced price meals; this master list must be retrievable by school; the following information must be retrievable by student: approval date, transfer, drop and change in status date;

e. agrees to set reduced price charges for lunch and breakfast at or below the maximum reduced price allowed by regulations and below the full price of the lunch or breakfast;

f. agrees that the information provided by the household is confidential and will be used only for purposes of determining eligibility and verifying data;

g. agrees that in the operation of child feeding programs, no child shall be discriminated against because of race, sex, color, national origin, age, or disability and agrees to have on file procedures for handling discrimination complaints;

h. agrees to designate a school official to review applications and make determinations of eligibility. Such official will use the criteria outlined in the eligibility guidelines (Refer to §505: Application Process.);

i. agrees to establish and use a fair hearing procedure under which a family can appeal a decision made by the SFA with respect to the child's free and reduced price meal application; the SFA can challenge the continued eligibility of any child for free or reduced price meals. During the appeal and hearing, the child, who was determined to be eligible based on the face of the application submitted, will continue to receive free or reduced price meals; prior to initiating the hearing procedure, the school official(s), the parent(s), or guardian(s), may request a conference to discuss the situation, present information, and obtain an explanation of data submitted on the application and the decisions rendered; such a conference shall not in any way prejudice or diminish the right to a fair hearing; the designated hearing official must be someone who is not involved in the original eligibility determination in any way, such as advising or answering questions for the approving official. It is suggested that this person hold a higher position than the determining official; the hearing official for the free and reduced application procedure and the hearing official for verification must be the same person; the hearing procedure shall provide the following for both the family and the SFA:

- i. a publicly announced, simple method for making an oral or written request for a hearing;

- ii. an opportunity to be assisted or represented by an attorney or other person;

- iii. an opportunity to examine, prior to and during the hearing, the documents and records presented to support the decision under appeal;

- iv. a hearing scheduled with reasonable promptness and convenience, with adequate notice of its time and place;

- v. an opportunity to present oral or documentary evidence and arguments supporting a position without undue interference;

- vi. an opportunity to question or refute any testimony or other evidence and to confront and cross examine any adverse witness(es);

- vii. a hearing that is conducted and a decision made by an official who did not participate in the decision under appeal or in any previous conference;

- viii. a decision of the hearing official based on the oral documentary evidence presented at the hearing and entered into the hearing record;

- ix. notifications in writing of the decision to the parties concerned and any designated representative;

- x. a written record for each hearing which includes the decision under appeal, any documentary evidence and a summary of any oral testimony presented at the hearing, the decision of the hearing official and the reasons therefore, and a copy of the notification to the parties concerned of the hearing official's decision.

j. agrees to retain such written records for a period of three years after submission of the final Claim for Reimbursement for the fiscal year. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed. These records must be made available for examination by the parties concerned or their designees at any reasonable time and place during such period;

k. agrees to develop and distribute a letter/notice to each child's parent(s) or guardian(s); an application with instructions and a letter to households shall be distributed at or about the beginning of each school year or whenever there is a change in eligibility criteria; households that have been directly certified will be notified of their eligibility; the letter and the application that are sent to parents shall have only the Income Eligibility Guidelines for reduced price meals with an explanation that households with incomes at or below the reduced price guidelines may be eligible for either free or reduced price meals;

- i. Applications may be submitted and filed at any time during the year. Parent(s) or guardian(s) enrolling a child in a school for the first time shall be supplied with appropriate application materials regardless of the time of year the child is registered. If a child transfers from one school to another under the jurisdiction of the same SFA, eligibility will be transferred to and honored by the receiving school

- ii. If no other income is listed, a multi-child application that lists a valid FITAP case number should be approved free for all students listed on the application. If a higher income is listed that would change the eligibility status of the other children, then the SFA must investigate

before making an eligibility determination for those children. Parent(s) or guardian(s) will be promptly notified of the acceptance or denial of their application(s).

iii. In certain cases, foster children are also eligible for free or reduced price meals regardless of the income of the household with whom they reside. If a household has foster children and wishes to apply for such meals, the household should complete the application as indicated for a foster child.

iv. When an application is rejected, parent(s) or guardian(s) will be provided written notification that shall include the following elements:

(a.) the reason for the denial of benefits: e.g., income in excess of allowable limits or an incomplete application;

(b.) notification of the right to appeal;

(c.) instructions on how to appeal; and

(d.) a statement reminding parents that they may reapply for free and reduced price benefits at any time during the school year.

v. The reasons for ineligibility shall be properly documented and retained on file.

vi. Interested parent(s) or guardian(s) are responsible for completing the application and returning it to the school for review. Such applications and documentation of determinations made will be maintained for a period of three years after submission of the final Claim for Reimbursement for the fiscal year. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed.

l. agrees to submit a public release containing both the free and reduced price Income Eligibility Guidelines and all other information outlined in the letter to households to the local news media, local unemployment offices and major employers contemplating or experiencing large layoffs;

m. agrees to establish a procedure to collect money from children who pay for their meals and to count by category at the point of service the number of free, reduced price and full-price meals. The procedure used must avoid overt identification; overt identification means any act that openly identifies children as eligible for free or reduced price benefits in the Child Nutrition Programs.

n. agrees to submit to the LDOE any alterations of documents or procedures before implementation; such changes will be effective only upon approval;

o. agrees to:

i. verify eligibility for free and reduced price meals regulations,

ii. complete the verification process by December 15 of each year,

iii. maintain a summary of the verification efforts that indicates the total number of applications on file October 31, the percentage or number of applications verified, techniques used, documentation submitted by Households, documentation of any changes in eligibility and reasons for changes, and all relevant correspondence with Households.

#### B. Requirements for a Nonpricing Program

1. A nonpricing program is one in which there is no separate identifiable charge made for meals served to participants. The documents listed below are part of the

permanent agreement; they must be maintained, updated and submitted to the State Agency as requested by the State Agency and when adjustments or amendments are made:

a. a copy of the current license, if private;

b. Income Eligibility Guidelines for Free and Reduced Price meals;

c. the Collection Procedures and Accountability Statement;

d. changes in approved collection procedures and/or collection procedures for new schools, if applicable;

e. the applicable School Meals Initiative Option(s) for the current school year and applicable attachments demonstrating lunch/breakfast/snack patterns and Nutrient Standards;

f. the Authorized Representatives of the SFA;

g. the Warning Statement of Criminal Provisions and Penalties;

h. changes made necessary by law or regulations.

2. In fulfilling its responsibilities, each nonpricing SFA shall:

a. agree to claim as free meals only those meals served to children from families whose incomes are at or below that listed for free meals in the Income Eligibility Guidelines; an institutionalized child who resides in a residential type facility that the State has determined is not a boarding school is considered to be a household of one; only income a child earns from employment and/or personally receives while in residence at the institution may be considered as income;

b. agree to maintain documentation on file for three years after submission of the final Claim for Reimbursement for the fiscal year. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed.

c. agree that there will be no physical segregation of or any other discrimination against any child; the names of the children for whom free or reduced price meals may be claimed shall not be published, posted, or announced in any manner, and there shall be no overt identification of any such children by any means; further assurance is given that children shall not be required to do the following:

i. work for their meals;

ii. use a separate dining room;

iii. go through a separate serving line;

iv. enter the cafeteria through a separate entrance;

v. eat meals at a different time, or eat a different meal;

d. agree that, in the operation of child nutrition programs, no child shall be discriminated against because of race, color, national origin, age, sex, or disability; the central office will have on file a procedure for handling discrimination complaints;

e. agree to designate a school official to make the determination of eligibility; such official will use the criteria outlined in the Eligibility Guidelines;

f. agree to establish a procedure to count by category at the point of service the number of reimbursable meals;

g. agree to keep on file, where a school food service program is in operation, a master list indicating the name, date of birth, income, and eligibility category of all children;

the date the child entered the school or institution and the date the child withdrew from enrollment must be included.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2121 (December 2001).

### **§505. Application Process**

#### **A. Benefits Prior to Processing Application**

1. Prior to the processing of applications for the school year, free and reduced price meals may be served to the following:

- a. children from households with approved applications on file from the previous year;
- b. new children in a SFA whose names are listed on an application from the previous school year; they may be extended the same approved benefits as their siblings, except that direct certification cannot be extended to a sibling; and
- c. previously approved children who transfer from one school to another or from another SFA.

2. If the applications are not maintained in the central office, the school from which the student transferred shall retain a copy of the student's application on file and the original application shall be transferred with the child. Local officials may wish to develop a cooperative transfer system between the private schools and the public school system within the same parish or city to provide eligibility information for students transferring between these schools.

3. A SFA may, if desired, use a properly approved free and reduced price application obtained in the current school year by another SFA in the event a family moves during the school year or changes from one SFA to another for whatever reason. The application may be used for the remainder of the school year (Refer to USDA memo 96-SP-39.)

4. Applications from a prior year are valid for the first 30 operating days or less of the new school year as determined by the local SFA.

5. Early childhood education, pre-kindergarten, and kindergarten students are not included in the previous year's enrollment; therefore, local school officials are encouraged to distribute a free/reduced application during the early "round-up" enrollment for processing prior to the first day of school and for use during the first 30 operating days of the new school year. New applications will need to be distributed upon the first day of school.

#### **B. Types of Applications**

##### **1. Single Child Application**

a. The single child application is designed to accommodate only one child in a household. Therefore, the SFA must have a valid application on file for each student that received a meal that is claimed for Federal Reimbursement at the free or reduced price rate. However, students who have been directly certified and those students in nonpricing programs are not required to submit an application.

##### **2. Multi-Child Application**

a. The multi-child application, which was developed to accommodate more than one child in the household, must provide space for identifying each child

separately as a member of a food stamp household or FITAP assistance unit. (Contact the State agency for information regarding FITAP or Food Stamp Numbers.) This identification is necessary because of the possibility of mixed households in which some children may be part of a food stamp household or FITAP and some may not. However, a single Food Stamp or FITAP number is sufficient to establish categorical eligibility for the household. Schools using the multi-child application must require the household to submit a separate application for each foster child.

##### **3. Foreign Language Application**

a. Where a significant number or proportion of the population eligible to be served in the SFA needs information in a language other than English, SFAs must make reasonable efforts, considering the size and concentration of such population, to send appropriate non-English language household letters/notices and application forms to such households. (Contact the State Agency for foreign language applications.)

##### **4. Application Approval Deadline**

a. The application process must be completed no later than 30 operating days from the first day of school. This process includes the distribution of applications and letters to the parent, the return of the application, eligibility determination, and notification to the parent. Within this timeframe, applications should be reviewed and parents notified of the eligibility determination as soon as possible, but no later than 10 operating days after receipt of the application.

#### **D. Complete Application for Various Types of Students.**

1. The household must provide all the required information on the application for the application to be considered complete. Any other information requested on the application but not provided by the household must not delay processing of the application.

2. SFAs with computer approved free/reduced priced meal applications are not required to have the signature of the determining official on the application.

3. The following information must be provided by the household before an eligibility determination can be made:

##### **a. Emancipated Student**

i. An emancipated child who lives alone or as a member of a household with no adult household members must sign his or her own application. No social security number is required, since the emancipated child is not an adult.

##### **b. Student Living with in a Food Stamp Household/FITAP Household Assistance Unit**

i. In cases where no specific welfare agency or court is legally responsible for the child or where the child is living with a household in which he/she is not a member of the family, the child is considered to be a member of the household with whom he/she resides. If the household receives Food Stamps or if other children in the household receive FITAP benefits, the single Food Stamp or FITAP number provided on the application would qualify the student living in the household for free meals. If neither Food Stamp nor FITAP benefits are received by any single person in the household, the application must include all the

information required as outlined in section 705(D)(g) Income Households. Food stamp benefits are not counted as income.

c. Foster Child

i. Application is made for a foster child using the same application that is used for other students. The exception is that the foster child section of the application is to be completed and the foster parent or other official must sign. The foster child is a household of one; therefore, other household members are not shown on the application.

d. Food Stamp Households/FITAP Households

i. Applications for children receiving food stamps or FITAP benefits must contain the following elements:

- (a.) the name of the child,
- (b.) the child's food stamp or FITAP case number, and
- (c.) the signature of an adult household member.

e. Homeless Students

i. To accommodate homeless children whose parent(s) or guardian(s) neglect to complete a free/reduced price meal application, SFAs may use one of the following procedures:

(a.) The director of the homeless shelter may complete an application for the child. The SFA may complete an application for the child.

(b.) The SFA may complete an application for a child and approve the child for free meals based solely on their knowledge that the child's address is a homeless shelter or that the child has no known address and is indeed homeless.

ii. When a list is used to document eligibility, it must be updated as changes occur. Documentation to substantiate free meal eligibility must consist of the following information:

- (a.) child's name;
- (b.) date added;
- (c.) residence (shelter, etc.);
- (d.) signature of determining official; and
- (e.) date of withdrawal from the school.

f. Disaster Victims

i. In cases in which a household from a designated disaster area moves in with another household that lives in that city, another city or another state, only the household size and income from that household in crisis would be included in the eligibility determination. The household size and income from the host family need not be included on the application or otherwise considered in the eligibility determination.

ii. SFAs should review eligibility determinations made under these crisis procedures every 45 days to evaluate the household's circumstances.

g. Income Households

i. The following information is required to determine eligibility on applications received from other households:

- (a.) the names of all household members;
- (b.) the amount of monthly income received by each household member identified by source, such as wages, welfare, and alimony;
- (c.) the signature of an adult household member;

and

(d.) the social security number of the household member who signs the application or an indication that the household member that signs the form does not have one.

E. Incomplete Application

1. If any required information is missing, the information must be obtained before an eligibility determination can be made.

2. The application may be returned to the household or the household may be contacted by telephone or in writing to get the information. The SFA must document the details of the contact, enter the information received on the application, date and initial the entry. However, if the application is missing the signature of the adult household member, the application must be returned to the household. In signing the application, the household member is certifying that the information is true and correct. Every reasonable effort should be made to obtain the missing information prior to denying the application.

F. Inconsistent Application

1. If there are inconsistencies or any questions concerning the information provided, the household should be contacted for clarification prior to the approval or denial of the application. When the contact is made, the caller should record his/her initials, date, and time the call was placed, the name of the person with whom the caller spoke, and any information conveyed in the conversation.

G. Eligibility Determination

1. Categorical Eligibility

a. Children who are currently receiving food stamps or FITAP benefits are categorically eligible for free meal benefits. The application must contain the child's name, a valid food stamp or FITAP case number, and the signature of an adult household member.

2. Income Eligibility

a. Households that do not claim categorical eligibility must provide household size and income information. If the total reported income for the household is within the eligibility limits, the child is eligible for either free or reduced price meals.

3. Valid Food Stamp/FITAP Case Number and Income Information

a. Since children receiving food stamp/FITAP benefits are categorically eligible to receive free meals, income information, if provided, does not apply. The eligibility determination must be based on the food stamp/FITAP case number only.

H. Direct Certification

1. SFAs are able to implement direct certification of children from food stamp/households under the Child Nutrition Programs. Direct certification allows SFAs to certify children as eligible for free meals or free milk based on documentation obtained directly from the Food Stamp Office.

2. Instructions regarding the procedure for direct certification will be provided by the State Agency. SFAs must follow State Agency instructions prior to implementing eligibility determinations based on direct certification. Documentation for those children certified as eligible by direct certification must include the following elements:

- a. the name of each child from households currently certified to receive food stamps;
- b. each child's date of birth;

c. the social security number that matches the name and date of birth of the child certified as receiving food stamp or FITAP benefits; and

d. official correspondence that outlines procedures to submit school data for direct certification.

3. The Division of Planning, Analysis, and Information Resources will provide SFAs with an electronic file that identifies Louisiana Educational Authority (LEA) enrolled students in their file who can be matched with the school's file using the student's first name, social security number and date of birth. Identified also are those students who match on social security number in both their file and the school's, but the name and the birth date are different. If the SFA chooses to extend benefits to students not matching on all three factors, documentation must be available to indicate that children receiving food stamps are the same children identified in the school system records. Failure to have the required information could result in disallowance of meals and recovery of reimbursement during a review or audit. If documentation is not available, a free and reduced price meal application must be issued to establish eligibility for that student. Documentation, as described, must be retrievable by the school.

4. Letters/notices and applications must be distributed to households of all children at the beginning of the school year to prevent overt identification and to ensure that no child is inadvertently excluded from participation.

5. The notice to households must advise them that their child/children is/are eligible for free meals or free milk, as appropriate, and that no further application is required; that the households should notify the school if they do not want their children to receive free benefits; and that the households must notify the school when they are no longer certified to receive food stamp benefits.

6. SFAs that implement direct certification are not required to send the letter/notice and application to those households eligible under direct certification if these materials are distributed through the mail, individual student packets, or other method that prevents the overt identification of children eligible for direct certification. Under this option, households eligible under direct certification will receive a letter notifying them that their children are eligible for free benefits. Other households will receive a parent letter or notice with an application form.

#### I. Computing Current Income

1. If current income is reported other than monthly, the following formulas can be used to achieve the desired income quantification:

- a. monthly income;
  - i. weekly income x 4.33;
  - ii. bi-weekly income (every two weeks) x 2.15;
  - iii. semi-monthly income (twice a month) x 2.
- b. annual income;
  - i. weekly income x 52;
  - ii. bi-weekly income (every 2 weeks) x 26;
  - iii. semi-monthly income (twice a month) x 24.

#### J. Zero Income, Temporary Reduction in Income

1. When there is a temporary reduction in income or zero income, eligibility should be determined on the present rate of income rather than on regular annual income. Temporary approval should be granted for a 30 day period. Parents must reapply for any extension of eligibility. If the

income is still subject to change, a new temporary approval should be issued. The temporary approval is no longer valid after 30 days, unless updated.

2. Temporary approvals should be issued for eligible children for the following types of economic situations:

- a. seasonal unemployment;
- b. temporary layoffs;
- c. strikes or voluntary work stoppage;
- d. temporary usage of public assistance, in cases in which the application specifies receipt of public assistance for a limited time; and/or
- e. zero income, for whatever reason. However, zero income on an application for a foster child or institutionalized child is acceptable and may be approved for the school year.

3. The SFA should accept and approve zero applications at "face value"; however, the application can then be placed into the verification process, where the SFA should request documentation as deemed appropriate. Verification guidance suggests that households that indicate zero income should provide a brief note on how they provide food, clothing, and housing, and when the household expects income. If the information is not acceptable, school officials may terminate the household. Like all adverse action situations in the free and reduced price eligibility process, the terminated family must be afforded the right to a fair hearing. Verification of zero income applications would be in addition to the number of applications required under Random or Focused Verification methods. At the SFAs discretion, an application with zero income may be verified.

3. The SFA should accept and approve zero applications at "face value"; however, the application can then be placed into the verification process, where the SFA should request documentation as deemed appropriate. Verification guidance suggests that households that indicate zero income should provide a brief note on how they provide food, clothing, and housing, and when the household expects income. If the information is not acceptable, school officials may terminate the household. Like all adverse action situations in the free and reduced price eligibility process, the terminated family must be afforded the right to a fair hearing. Verification of zero income applications would be in addition to the number of applications required under Random or Focused Verification methods. At the SFAs discretion, an application with zero income may be verified.

#### K. Household Failure to Apply

1. Local school administrators may complete an application for a student known to be needy if the household fails to apply. When exercising this option, the school official must complete an application on behalf of the student based on the best household size and income information available and then make an eligibility determination. The source of the information must be noted. Social security numbers and names of household members need not be secured; these applications may be excluded from verification. The household must be notified that the student has been approved and is receiving free or reduced price meal benefit. This option, which is intended for use in individual situations, does not allow eligibility determinations for categories or groups of children; however, this option does not apply to children in homeless shelters.

#### L. Citizenship

1. U.S. citizenship is not a factor in the determination of eligibility. An eligibility determination is based on household size/income or the receipt of food stamps/FITAP for the child as reported on a completed application.

#### M. Notification of Eligibility or Denial

1. All households must be notified of their eligibility status. Households denied benefits must be given written notification of the reason for denial and appeal rights and procedures. The households must also be advised that they may reapply at any time during the school year if their circumstances change.

#### N. Reporting Changes in Household Circumstances

1. A household approved for benefits based on income must report increases over \$50 per month or \$600 per year



and any decreases in household size. When a household reports such changes, the SFA shall review the information, make any appropriate change in eligibility, and notify the household. A household that provided a food stamp or FITAP case number to establish eligibility for free benefits must report termination of benefits for the student under the Food Stamp or FITAP Programs. A household reporting such a change and wishing to continue benefits for the student must complete a new application and provide household size/income information.

O. Changes in Eligibility after the Initial Approval Process

1. Changes in eligibility resulting in increased benefit levels shall be made as soon as possible but no later than three operating days from the date the SFA makes the final decision on a child's eligibility status. All households for whom benefits are to be reduced or terminated must be given 10 calendar days written advance notice of the change. The first day of the advance notice period is the day the notice is sent. When a household appeals a reduction or termination of benefits within the 10 calendar day advance notice period, the SFA must continue to provide the benefits for which the child was originally approved until a final determination is made. When a household does not appeal a reduction or termination of benefits during the 10 calendar day advance notice period, the actual reduction or termination of benefit must take place within 10 operating days after the 10 day advance notice period.

P. Appeals

1. A household may appeal the denial of its application or the level of benefits for which it has been approved. The hearing procedures outlined in the SFA's Free and Reduced Price Policy Statement must be followed.

Q. Recordkeeping

1. The determining official should indicate the date the application is approved and sign the application. When an application is denied, the reason for the denial must be noted, dated, and kept on file. Records should also include the date the denial notice is sent and the name of the determining official. This information may be noted directly on the application. When a student's eligibility changes or a student transfers to another school, the date of change or transfer shall be noted. Computer approved applications are not required to have a signature of the determining official.

2. Applications may be maintained either at the school or at a central location with a master list of eligible students maintained at the school. If the SFA chooses to maintain applications at a central location, applications must be retrievable by the school. The SFA must ensure that changes in eligibility status and transfers are accurately recorded and dated on each school's master list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2124 (December 2001).

**§507. Determining Household Size**

A. The following information provides guidance in making household size determinations.

1. A household (family) is a group of related or unrelated individuals who are not residents of an institution or boarding house but who are living as one economic unit.

2. An economic unit is a group of related or unrelated people who share housing and/or all significant income and expenses of its members. Generally, individuals residing in the same house are an economic unit. However, more than one economic unit may reside together in the same house. Separate economic units in the same house are characterized by prorating expenses and economic independence from one another.

3. A household of one (a one-person household) is an emancipated child living alone or as a separate economic unit, a foster child, and/or an institutionalized child.

B. Categorically Eligible

1. A child for whom food stamps/FITAP is received is automatically eligible for free meals when the household provides a current food stamp/FITAP case number on the application.

C. Students Away at School

1. Students who are temporarily away at school, such as students attending boarding schools or colleges, should be counted as members of the household.

D. Military Families. Military personnel on shore duty living with the household or away on Temporary Duty (TDY) are considered household members. Military personnel serving overseas or assigned to a military base and not living with the household for an extended period of time are not considered members of the household for purposes of determining eligibility. Any money sent to the household by the military is to be included as income.

E. Foster Child

1. A foster child is a child who is living with a household but who remains the legal responsibility of the welfare agency or court. Such a child is considered a household of one. Income received by the child for personal use should be recorded in the income column. If income is not received on a regular basis, the SFA should record "0" in the income column. Foster children are not categorically eligible unless FITAP or food stamp benefits are received for them.

F. Child Living with One Parent, Relatives, or Friends

1. In cases in which no specific welfare agency or court is legally responsible for the child, or in which the child is living with one parent, other relatives, or friends of the family, the child is considered to be a member of the household with whom he/she resides; and the size and total income of that household is used to determine the child's eligibility.

G. Adopted Child

1. An adopted child for whom a household has accepted legal responsibility is considered to be a member of that household. Therefore, the household's size and total income are considered in the eligibility determination.

H. Institutionalized Child

1. An institutionalized child is a child that resides in a residential-type facility that the State has determined is not a boarding school. Such a child is considered a household of one.

I. Student Attending an Institution

1. A student who attends, but does not reside in, an institution is considered a member of the household in which he/she resides.

J. Emancipated Student

1. A student living alone or as a separate economic unit is considered a household of one. Therefore, only the student's income is considered for eligibility purposes.

#### K. Boarding School Student

1. A student in a boarding school is considered a member of the household in which he/she normally resides. Therefore, household size and total household income are considered in the eligibility determination.

#### L. Foreign Exchange Student

1. A foreign exchange student is considered a member of the household in which he/she resides. Therefore, the household size and total household income are considered in the eligibility determination.

#### M. Joint Custody Student

1. A joint custody student is one who is a member of more than one household. If the households, have different economic status, as determined by the Income Eligibility Guidelines, the eligibility status changes when the student's residence changes. If the economic units are comparable, a status change is not necessary.

2. If the SFA determines that the changes in economic units are too frequent and to the detriment of the student, the SFA may use the income from the economic unit that is most advantageous to the child. This procedure may be used in situations in which the student's residence changes frequently such as weekly or biweekly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education in LR 27:2127 (December 2001).

### §509. Determining Income

#### A. Reportable Income

1. Income to be reported on the non-categorically eligible household's application is any money received on a recurring basis, including gross earned income. Specifically, gross income means all money earned before deductions such as income taxes, employee's social security taxes, insurance premiums, and bonds. The following types of income are classified as reportable income:

- a. payment of money for services, including wages, salary, commissions or fees;
- b. social security benefits;
- c. supplemental security income (SSI);
- d. public assistance/welfare payments (FITAP);
- e. alimony or child support payments;
- f. unemployment compensation;
- g. government civilian employee or military retirement or pension;
- h. veterans' payments;
- i. private pensions or annuities;
- j. regular contributions from persons not living in the household;
- k. net income for self-employed farmers and business persons, rental income and royalties;
- l. dividends or interest on savings or bonds; income from estates or trusts;
- m. other cash income, including cash amounts received or withdrawn from investments, and/or trust accounts; and
- n. other resources that would be available to pay the price of a child's meal.

#### B. Income Exclusions

1. The following types of income, which are not classified as reportable income, are considered income exclusions.

a. Income not to be reported or counted includes any cash income or value of benefits a household receives from any Federal program that excludes such income by legislative prohibition, such as the value of food stamps, and child care grant programs,

b. Student financial assistance, such as grants and scholarships, awarded to meet educational expenses is not considered as income. Examples of this assistance include Pell Grants and Supplemental Educational Opportunity Grants.

c. Loans, such as bank loans, are not considered as income, since these funds are only temporarily available and must be repaid.

d. The value of in-kind compensation allowances, such as military base housing or other subsidized housing, medical and dental services, are not counted as income.

e. Occasional earnings received on an irregular basis or not recurring, such as for occasional baby sitting or mowing lawns, are not considered as income.

#### C. Current Income

1. Current income means income received by the household during the month prior to application and multiplied by 12 to reflect annual income, except for the following income as described in D. through M.

#### D. Projected Income for Seasonal Workers and Others

1. Current income is usually the income received during the month prior to application, multiplied by twelve. If such income does not accurately reflect the household's annual income, income should be based on the household's projected annual income. For example, income reported by a seasonal worker employed during the month prior to application may not accurately reflect the household's annual income; therefore, seasonal workers may report their projected annual income as their current income. If the prior year's income provides an accurate reflection of the household's current annual income, the prior year may be used as a base for the projected annual income.

#### E. Self-Employment Income

1. Self-employed persons may use last year's income as a base to project current year's net income, unless their current monthly income provides a more accurate measure.

2. Self-employed persons report net income rather than gross income. Net income for self-employment is figured by subtracting deductible business expenses from gross receipts.

a. Gross receipts include the total value of goods sold or services rendered by the business.

b. Deductible business expenses include the cost of goods purchased, rent, heat, utilities, depreciation charges, wages and salaries paid, and business taxes but not personal Federal, State or local income taxes.

3. The value of saleable merchandise consumed by the proprietors of retail stores is not included as part of net income.

#### F. Farm Income

1. Net income for self-employed farmers is figured by subtracting the farmer's operating expenses from the gross receipts.

2. Gross receipts include the value of all products sold; money received from the rental of farm land, buildings or equipment to others; and incidental receipts from the sale of items such as wood, sand, and gravel.

3. A farmer's operating expenses include cost of feed, fertilizer, seed and other farming supplies; cash wages paid to farmhands; depreciation charges; cash rent; interest on farm mortgages; farm building repairs; and farm taxes but not State and Federal income taxes.

#### G Income Losses From Self-Employment

1. In a household in which there is income from wages and self-employment, income from wages may not be reduced by business losses. If income from self-employment is negative, it should be listed as zero income.

#### H Income Losses From Bankruptcy

1. If a family has declared bankruptcy and a portion of the family's current income is being garnished, the amount being garnished is not deductible. The family's total gross income must be used in determining eligibility.

#### I Military Income/Benefits

1. Military benefits received in cash, such as housing allowances for military households living off base and food allowances, must be considered as income. However, the value of in-kind benefits other than cash, such as on-base housing, is not considered as income.

#### J Income for Foster Children

1. Only the following funds should be considered in determining income for the foster child:

a. Funds provided by the welfare agency, which are specifically identified by category for personal use of the child, such as for clothing, school fees and allowances, are considered income. Welfare funds identified by category for shelter and care, and those identified as special needs funds such as those for medical and therapeutic needs are not considered as income. If welfare funds cannot be identified by category, no portion of the provided funds is considered as income.

b. Other funds received by the child, including, but not limited to, monies provided by the child's family for personal use and earnings from employment other than occasional part-time jobs are considered income.

#### K Income for Institutionalized Children

1. Payments from any source directly received by the institution in a child's behalf are not considered as income to the child. Only income a child earns from full time or regular part-time employment and/or personally receives while in residence at the institution may be considered as income.

#### L Student Income

1. The earnings of a student employed full-time or part-time must be listed on the application. However, occasional earnings, such as babysitting, should not be listed on the application.

#### M Alimony and Child Support

1. Any monies received by a household in the form of alimony or child support are counted as income. However, any monies paid for alimony or child support may not be deducted from a household's reported gross income.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:191-199.

**HISTORICAL NOTE** Promulgated by the Board of Elementary and Secondary Education in LR 27:2128 (December 2001).

### §511. Program Operations

#### A. Nondiscrimination

1. There must not be any discrimination of children receiving free and reduced price benefits.

2. The names of the children must not be published, posted or announced in any manner.

3. The children must not be required to work for their meals.

4. The children must not be required to use a separate dining room, separate serving line, or separate time, etc.

5. There must not be any overt identification of any of the children by use of special tokens or tickets. The SFA must use the collection procedure approved as part of its Free and Reduced Price Policy Statement.

6. There must not be any discrimination on the basis of race, color, national origin, age, sex, or disability in the application approval process or in the selection of applications for verification.

#### B. Prohibition Against Denying Meals to Children as a Disciplinary Action

1. Regulations prohibit the denial of free, reduced price, or paid meals as disciplinary action to any child in attendance at school. This prohibition does not extend to the denial of meals for failure to pay. Denying meals to students for disciplinary reasons associated with disruptive behavior in the cafeteria, selling free meal tickets, etc., is prohibited under Federal Regulations. Disciplinary action used for other unacceptable behavior could be applied in these situations.

#### C. Denying Meals to Students for Failure to Pay

1. The SFA is not obligated to continue providing meals without receiving payment. The students' ability to pay is determined through the free and reduced price meal application process. Those students not eligible for free meals must pay for their meals at the prices established for full price and reduced price students. Regulations do not prohibit a school system from denying a meal to paying students who have not paid for the meal.

#### D. Handling Lost, Stolen, and Misused Meal Tickets

1. SFAs may establish procedures to limit the number of times replacement tickets or special meal arrangements must be provided to needy students who report lost or stolen meal tickets. The term ticket refers to any and all forms of exchange used, including paper tickets, cards, coins, or tokens. It should be noted that, when handling instances of missing tickets, schools need not actually issue a replacement ticket if appropriate meal arrangements are made, such as accompanying the student through the cafeteria line.

2. Any procedures established to limit the number of tickets reissued to needy students must conform to all of the following standards.

a. Parents and students must be advised in writing of the school's policy regarding missing tickets and of the students' corresponding responsibility for their tickets. Such notice shall be provided at the time applications are distributed to households or upon approval for free or reduced price benefits,

b. A minimum of three ticket replacements, or special meal arrangements resulting from three lost or stolen tickets, must be allowed each student within each school year.

c. The school must maintain a list of students who have reported missing original ticket(s) in the current school year and the number of occurrences for each student. Prior to denying a meal to any student without a ticket, the list should always be reviewed to determine whether the student has already had at least three ticket replacements or special meal arrangements for lost or stolen tickets within the school year.

d. At least one advance written warning must be given to the student(s) and the parent(s) prior to refusal to allow additional meals or ticket replacements. The written warning must include an explanation that the student has repeatedly requested replacement tickets and that each subsequent time the student fails to have a ticket, he/she will be expected to pay for the meal.

e. Meals must always be provided to preprimary and young primary students or for any disabled student who may be unable to take full responsibility for a meal ticket.

3. It is recommended that the meal or ticket replacement policy for missing free and reduced price tickets be extended to the loss of full-priced tickets. If such a uniform policy is not implemented, schools should exercise caution to prevent overt identification of needy students, when reissuing tickets or providing meals to students whose tickets are missing.

#### E. Privacy Act Statement

1. The meal application must contain a privacy act statement. The statement must address the following information.

a. The disclosure of a social security number is voluntary; however, the social security number of the adult signer of an income application is required for approval of the application. If the adult signer has no social security number, there must be a statement indicating that the adult signer has no social security number.

b. The social security number is required under provisions of the National School Lunch Act.

c. The statement must disclose what uses will be made of the social security number.

#### Sample Privacy Act Statement

\*PRIVACY ACT STATEMENT: Unless you list the child's food stamp or FITAP case number or are applying for a foster child, Section 9 of the National School Lunch Act requires that you include the social security number of the household member signing the form or indicate that the household member signing the form does not have a social security number. You do not have to list a social security number; but if a social security number is not listed or an indication is not made that the adult household member signing the form does not have a social security number, we cannot approve the form. The social security number may be used to identify the household member in verifying the correctness of the information stated on the form. This may include program reviews, audits, and investigations and may include contacting employers to determine income, contacting a food stamp or FITAP office to determine current certification for food stamps or FITAP benefits, contacting the State employment security office to determine the amount of benefits received, and checking the documentation produced by the household member to prove the amount of income received. These efforts may result in a loss or reduction of benefits, administrative claims, or legal actions if incorrect information is reported. The social security number may also be disclosed to programs as authorized under the National School Lunch Act and the Child Nutrition Act, the Comptroller General of the United States; and law enforcement officials for the purpose of investigating violations of certain Federal, State, and local education, health and nutrition programs.

#### F. Confidentiality and Disclosure of Eligibility Information

1. The names of students and their meal eligibility status for meal benefits shall be kept confidential; however, it is acceptable for authorized individuals to disclose information under the following guidelines.

a. The Healthy Meals for Healthy Americans Act of 1994, P.L. 103-448, amended Section 9 (b)(C) of the National School Lunch Act (42 U.S.C. 1751 (b)(2)(C)) allows, without consent, limited disclosure of information about free and reduced price meal eligibility. Disclosure limitations apply to all the Child Nutrition Programs. The Statute specifies a fine of not more than \$1000 or imprisonment of not more than 1 year, or both, for unauthorized disclosure of free and reduced price meal eligibility information.

b. The USDA has authorized determining agencies (the State Agency, school food authority, schools including private schools, charter schools, child care institutions or Summer Food Service Program sponsors) to disclose free and reduced meal eligibility information to the extent authorized in the statute. Disclosure of eligibility information about participants beyond that authorized by the statute is permitted only with consent. The entity receiving the information from the determining agency, termed the receiving entity, may use the information for only the purpose authorized and may not share the information further. Providing aggregate information that does not identify individuals continues to be permitted without consent.

c. Determining agencies may disclose, without consent, participants' names and eligibility status (whether they are eligible for free meals or reduced price meals) to persons directly connected with the administration or enforcement of the following programs:

i. federal education programs, such as Title I and the National Assessment of Educational Progress;

ii. state health or state education programs, provided the programs are administered by a state agency or a local education agency; Representatives of state or local agencies evaluating the results and compliance with student assessment programs would be covered only to the extent that the assessment program was established at the state, not local level;

iii. federal, state, or local means-tested nutrition programs with eligibility standards comparable to the National School Lunch Program (i.e., food assistance programs to households with income at or below 185 percent of the federal poverty level, such as the Food Stamp Program or a state or local nutrition program); and

iv. at the discretion of the local SFA, the eligibility status of prospective students enrolled in a Charter School approved by the SBESE may be disclosed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education in LR 27:2129 (December 2001).

#### §513. Verification Process for School Meals

A. Verification is confirmation of eligibility for free and reduced price benefits under the NSLP or SBP. Verification must include confirmation of income eligibility or

confirmation that the child is included in a currently certified food stamp household or FITAP. At State or local discretion, verification may also include confirmation of any other information on the application that was required as a condition of eligibility. (Refer to §505: Application Process.)

#### B. Direct Certification

1. Food Stamp/FITAP households are excluded from the verification process when the households are approved through direct certification. SFAs should determine the minimum number of applications required to be verified based on the number of approved applications on file as of October 31 that are not directly certified.

#### C. Implementation

1. Verification must take place after the application has been approved. The SFA must complete verification of the minimum required sample size by December 15. Any additional applications may be verified anytime during the school year after applications have been approved. Any verification that is done for cause is in addition to the sample required for either random or focused sampling.

#### D. Sample Size Requirement

1. Each SFA must verify a sample of the total number of applications approved for benefits by selecting a sample through either random or focused sampling. These two verification methods are further described below.

a. Focused Sampling. The focused sampling method requires the verification of the lesser of 1 percent or 1,000 of the total approved applications (both income and categorical), selected from the approved applications with income information, plus the lesser of .5 percent or 500 of approved categorically eligible applications with food stamp/FITAP case numbers reported.

b. Random Sampling. The random sampling method requires the verification of the lesser of 3 percent or 3,000 of the approved applications, selected randomly.

2. SFAs may verify more than the required minimum sample, up to 100 percent of all approved applications, as long as the selection does not involve discrimination against anyone on the basis of race, color, national origin, age, sex, or disability. For the purpose of meeting the Federal minimum verification requirement, the total number of approved applications on file in the SFA is determined on October 31. Verification may begin prior to this date. SFAs may, based on experience, project the number of approved applications that will be on file on October 31.

#### E. Rounding Fractions

1. When calculating sample sizes, the SFA should always round fractions upward. With focused sampling, a minimum of one categorically eligible application and one income application must be verified if there are any such applications on file.

#### F. Focused Sample Selection Process

1. SFAs should focus their sampling targets for verification on applications with a high likelihood of containing errors: that is, households providing income information on the application and reporting income just below the minimum eligibility level.

2. SFAs should count all approved applications on file to determine the total. They should separate the applications into two groups:

a. the non-categorically eligible applicants, applicants who were approved on the basis of income information; and

b. the categorically eligible applicants, applicants who provided a FITAP or food stamp case number.

#### G. Income Eligible Sample

1. SFAs should use the following procedures to determine sample sizes for income eligible applicants.

a. For applications that provide income information, the sample size is 1 percent of total approved applications on file or 1,000 applications, whichever is less: e.g., total applications x .01.

b. From the group that reported income information, SFAs should select those applications with monthly incomes within \$100, or annual income within \$1,200, of the income eligibility limits. Zero income applications should be included.

i. If there are more applications with monthly income reported within \$100 (\$1,200 yearly) of the eligibility levels than needed to meet the minimum sample size, SFAs should select the income application sample using any method that is equitable and that ensures that the same households will not be selected year after year.

ii. If there are not enough applications with monthly income reported within \$100/\$1,200 (yearly) of the eligibility levels to meet the required minimum sample size, SFAs should select from those applications with monthly incomes closest to the eligibility levels.

iii. If there are not enough applications containing income information to meet the required minimum sample size, SFAs should verify all the applications approved on the basis of income information.

iv. Zero income applications may be verified for focused sampling in addition to the required number to be verified.

#### H. Categorically Eligible Sample

1. SFAs should use the following procedures to determine sample sizes for categorically eligible applicants.

a. They should determine the number required to fill the sample size by multiplying the total number of the categorically eligible applications by .005. The sample size is the lesser of 500 or .5 percent of all applications approved on the basis of food stamp or FITAP case numbers.

b. From the categorically eligible group, SFAs should select the sample using the method that is equitable and should ensure that the same household is not selected each year.

#### I. Random Sample Selection Process

1. The random sample size is 3 percent of all approved applications on file on October 31 or 3,000 applications, whichever is less. To calculate the minimum required sample size, multiply the total number of approved applications, including both income and categorical applications, by .03. At least one application must be verified.

2. SFAs should randomly select the required number of applications. Using the random sample method, SFAs should ensure that each application must have an equal chance of being selected, including all categorical and income applications.

#### J. Household Notification

1. When a household is selected for verification and is required to submit documents or other forms of evidence to verify eligibility, the household must be sent a notice/letter informing it of its selection and the types of information acceptable. The letter/notice to the household should include

- a. the notice of selection for verification;
- b. notification of the types of acceptable information that can be provided to confirm income include such documents as pay stubs, award letters from welfare Food Stamp and FITAP departments and social security offices, and support payment decrees from courts;
- c. a request for proof that the child is a member of a currently certified food stamp household or FITAP assistance unit may be provided instead of income information;
- d. a request for social security numbers must be provided for all adult household members of families whose eligibility is based on the submission of income information;
- e. notification that information must be provided, and failure to do so will result in termination of benefits;
- f. the name and telephone number of a school official who can answer questions and provide assistance, and
- g. notification that the household is required to submit the requested information by a specified date, as determined by the SFA.

2. When the SFA uses agency records to verify eligibility, the letter/notice of selection is not required, since the household will not have to provide documents and household cooperation will not be necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education in LR 27:2130 (December 2001).

### **§515. Verification Methods**

A. School officials must often use their own discretion in the process of verifying the eligibility of individual households. The following guidelines attempt to address most circumstances.

#### **1. Written Evidence**

a. Written evidence is the primary source of eligibility confirmation for income households, and the only acceptable source of eligibility confirmation for food stamp/FITAP households. Written evidence is most often in the form of pay stubs and letters from Food Stamp/FITAP or other government agencies submitted by the household to the verifying official as confirmation of eligibility.

#### **2. Collateral Contacts**

a. A collateral contact is an oral confirmation of the household's income by a person outside of the household who is knowledgeable about the household circumstances. Collateral contacts could include employers, social service agencies, migrant agencies, and religious or civic organizations. The verifying official should request a collateral contact only in cases in which the household has not been able to provide adequate written evidence.

b. The verifying official may select a collateral contact if the household fails to designate one or designates one that is unacceptable to the verifying official. In either case, no contact may be made without first notifying the household and obtaining its permission.

### **3. Agency Records**

a. A household's eligibility may be confirmed through the use of information maintained by other government agencies to which the State Agency, SFA or school has legal access. Although USDA regulations do not require that households be notified of selection when verifying through agency records, such agencies may have their own notification requirements.

b. Food Stamp/FITAP Offices are permitted by law to release eligibility information from their files to other Federal assistance programs and Federally assisted State programs. A form that can be sent to the LEA's Office of Eligibility Determinations to request confirmation of receipt of FITAP benefits may be obtained from the State Agency.

c. The LDOE will disseminate the October computer listings of food stamp participants to LEA and diocesan SFAs. Private schools may contact the LEA's parish school food service program director to check their food stamp applications. Since regulations require the verification of current or previous month's income, this listing must be utilized before the end of November.

d. Households that dispute the validity of income information acquired through agency records must be given the opportunity to provide more recent income information during the 10-day advance notice of adverse action.

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HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education in LR 27:2132 (December 2001).

### **§517. Confirmation of Eligibility Based on Income Information**

#### **A. Notification**

1. The notification of selection for verification should include a request for the household to submit written evidence of current income and provide social security numbers for all adult household members.

2. The household must submit the social security numbers of all adult household members and written evidence of current income. (Refer to §523: Appendix A.) Review the income document(s) for the name, date and amounts stated to determine whether the information provided is sufficient to determine total current income.

3. If the written evidence is current and confirms the eligibility determination previously made, the verification requirement has been satisfied. If the written evidence confirms a higher or lower income and changes the eligibility determination previously made, the verification requirement has been satisfied.

#### **B. Follow-up**

1. If the household submits insufficient or obsolete written evidence, school officials may contact the household to request the missing written evidence of current income and advise the household that failure to comply or designate a collateral contact will result in termination of benefits. If the household subsequently submits sufficient written evidence, the verification requirement has been satisfied.

#### **C. Adverse Notice**

1. If the household still does not submit sufficient written evidence or if the household failed to respond to the verification request, the SFA must send the 10-day advance notice of adverse action.

## **§519. Confirmation of Categorical Eligibility**

### **A. Food Stamp/FITAP Office**

1. When verification of eligibility involves use of computer listings of the names and case numbers of food stamp participants for October, the lists must be used before the end of November. Source information used must be current. In addition, the verification of eligibility must be accomplished so that there is sufficient time to acquire other verification from applicants identified as not currently receiving food stamp benefits.

### **B. Household Documentation**

1. A school can place the responsibility for verifying receipt of food stamp/FITAP benefits on the household by requesting that the household provide a document from the Food Stamp/FITAP Office.

2. Every time a household is approved for food stamps, it is furnished with a written letter of determination or notice of eligibility. The verifying official should examine this notice of certification to ensure that the child for whom application was made is part of a household currently participating in the Food Stamp Program. The notice of eligibility or the notice of certification is preferred for verification purposes.

3. FITAP recipients may provide their notice of eligibility for FITAP benefits that serves as documentation of their eligibility status as well as positive confirmation of their FITAP number.

4. A food stamp/FITAP document that does not specify the certification period is not adequate for documentation: for example, the food stamp identification card is not acceptable because it usually does not have an expiration date and is often kept by the household after the certification period has ended. The Electronic Transfer Benefits (ETB) card (Louisiana Purchase Food Stamp Card) is not proof of current certification of benefits.

5. A household that does not have satisfactory food stamp/FITAP documentation may request a signed, dated letter from the Food Stamp/FITAP Office certifying that the child is part of a household currently receiving benefits.

### **C. Advance Notice**

1. When it is determined that the child is not part of a household currently receiving food stamps/FITAP, the household must be given 10 calendar days advance notification of termination and be informed that they must submit an application. The application must include household members and income information, a social security number for each adult household member, and written evidence that confirms household income to establish continued eligibility for school meal benefits.

### **D. Acceptable Verification Confirmation**

1. Verification is complete when the local Food Stamp/FITAP Office certifies that the child is in a currently certified food stamp household or is receiving FITAP funds, or that adequate documentation of current participation in either program has been submitted.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:191-199.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 27:2132 (December 2001).

## **§521. Completion of Verification**

### **A. Completion Date**

1. Verification activities must be completed by December 15 of each year. Completion means that the required number of applications has been selected, notices have been sent to parents, social security numbers have been obtained for all adult household members for households providing income information, eligibility for the approved level of benefits for each applicant selected for verification has been confirmed or not confirmed, parents have been notified of changes or termination, and all changes/terminations have been implemented on or before December 15.

### **B. Confirmation of Eligibility, Changes/Termination**

1. Verification of a household's income eligibility for free or reduced price meals must result in one of the following options.

a. No change in benefit level. The household's current income or food stamp or FITAP eligibility supports the level of benefits for which the household has been approved.

b. Reduction in benefit level. The household's current income is too high for the benefits for which the household has been approved; therefore, the household's eligibility must be changed from free to reduced price, free to paid, or reduced price to paid immediately following the 10 calendar days from the date of the advance notice of adverse action, but no later than 10 operating days from the date of the final determination.

c. Increase in benefit level. The household's current income or food stamp or FITAP eligibility qualifies the household for free meals rather than reduced price meals. Therefore, the household's eligibility must be changed from reduced price to free meals as soon as possible, but no later than three operating days from the date of the final determination, or.

d. Termination of benefits. Households that do not cooperate with verification efforts or whose current income does not support eligibility for either free or reduced price meals must be changed as outlined in §721.C: Notification of Adverse Action, below.

2. If the verification of a household reporting income information or a food stamp identification number results in a change in benefit level or in termination, the change must be extended to all children in the household. However, this extension does not apply to foster children.

### **C. Notification of Adverse Action**

1. All households that are to receive a reduction or termination of benefits as a result of verification must be given 10 calendar days advance notice of the change. Benefits must be changed within 10 operating days after the end of the 10 calendar day period unless the household appeals.

2. The 10 day advance notice must advise the household of the following elements:

a. the change in benefits;

the reasons for the change;

b. the requirement an appeal must be filed within the 10 calendar day advance notice period to ensure continued benefits while awaiting a hearing and decision;

- c. the instructions on how to appeal; and
- d. the opportunity and providing for the household to reapply for benefits at anytime during the school year.

**D. Continuation of Benefits During Appeals**

1. If a household appeals a reduction or termination of benefits within the 10 calendar day advance notice period, the SFA must continue to provide meal benefits to students during the appeals process.

**E. Hearing Procedure**

1. The hearing procedure in the SFA's Free and Reduced Price Policy must be followed.

2. The hearing official must be an individual not connected with the approval or verification process.

3. The household may request a school conference prior to a formal hearing. This conference must not prejudice a later appeal.

**F. Households that Reapply For Program Benefits**

1. Households affected by a reduction or termination of benefits may reapply at any time during the school year. However, if benefits to a household have been terminated and the household reapplies in the same school year, it should be required to submit income documentation or proof of participation in the Food Stamp or FITAP Program at the time of the reapplication. The SFA may verify the households' eligibility prior to approval. This application is not considered a new application, since verification was not completed.

2. It is strongly suggested that the SFA establish procedures to identify households terminated as a result of verification to facilitate selection of those households for verification if they reapply for benefits during the same or subsequent school years. However, households verified and confirmed as eligible should not be reselected in the following school year if it can be avoided by the SFA.

**G. Recordkeeping**

1. SFAs must maintain a written description of their verification efforts. The description must include the following elements:

- a. a summary of the verification efforts, such as the selection process, and the source of information used;
- b. enough information for the process to be duplicated;
- c. the total number of applications on file on October 31; and
- d. the percentage or number of applications verified.

2. Either directly on the application or elsewhere, SFAs should keep a full record of:

- a. dates notices were sent;
- b. notes on any contacts made;
- c. copies of income documentation;

d. results of verification to include any changes in eligibility as a result of the verification process;

e. reasons for any denial or change of eligibility and the date; and

f. the signature and title of the verifying official.

3. This documentation is useful in demonstrating proper verification when SFAs are reviewed by the State Agency and would be needed in case of an applicant's appeal.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:191-199.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 27:2133 (December 2001).

**§523. Appendices**

**Focused Sampling Worksheet**

**SFA Guidance/Acceptable Income Documentation**

**Appendix A. Focused Sampling Worksheet**

**Income Sample**

(1) **Sample Size:** Total number of approved applications including income, food stamps households, and students receiving FITAP assistance \_\_\_\_\_ x .01 = or 1,000, whichever is less. Round all fractions upward to a whole number.

(2) Divide applications into two groups: categorically eligible applicants and those eligible based on stated income.

(3) Select applications with reported income within \$100 a month or \$1,200 a year of the free eligibility level and the reduced price eligibility level until you reach the required sample. Verify applications from both the free and reduced price categories.

(4) Sample selection techniques, which are equitable and ensure that the same Household is not selected each year, are determined at the local level. A statistically valid selection method may be used if desired.

**Categorically Eligible Food Stamp/FITAP Sample**

(1) **Sample Size:** Total number of categorically eligible applications \_\_\_\_\_ X .005 = \_\_\_\_\_ or 500, whichever is less. Round all fractions upward to whole number.

Sample selection techniques, which are equitable and ensure that the same Household is not selected each year, are determined at the local level. A statistically valid selection method may be used if desired.

**Appendix B. SFA Guidance/ Acceptable Income Documentation**

**Louisiana Department Of Education**

**Division Of Nutrition Assistance**

**School Food Service Section**

The following listing contains examples of sources of acceptable income documentation. This list is not exclusive, and additional sources may be requested.



Written Types of Income	Evidence
1. Earnings (wages and salary) are the total or gross earnings before the withholding for FICA, and taxes, or other deductions, such as insurance. If the applicant is a self-employed business person or farmer, net income should be used. Net income equals gross income minus deductible business expenses. NOTE: Many of the assets of self-employed business persons are on paper and their cash or net worth is often very low, although they may hold considerable property and equipment (assets). They should report only their actual cash income, not assets.	A current paycheck stub Pay envelope showing total gross pay Letter from employer stating gross wages Self-Employed: Business or farming documents, such as ledger books Last quarterly tax estimate Last year's tax return
2. Cash Income: Some persons who work in situations where the employer does not want to be responsible for withholdings - such as domestic workers, casual laborers, or persons working for an individual or small business on an irregular basis - may receive wages in the form of cash.	A letter from the employer stating wages paid and frequency
3. The FITAP, or Family Independence Temporary Assistance Program, is a welfare payment intended to assist eligible persons to meet the costs of daily living. Most often these payments are made to families with needy children under the age of 18 (21 if in school) in which a parent is absent from the home. Many states also provide benefits to families in which the male head of the household has been unemployed for a long time.	Benefit letter from the welfare agency
4. General Assistance or welfare is often a cash payment made by local welfare/human service agencies based upon need. Often these payments are confused with or even combined with FITAP payments.	Benefit letter from the welfare agency
5. Unemployment Compensation is paid to individuals who have lost their jobs.	Unemployment compensation award letter Notice of eligibility from State Employment Security Office Agency records
6. Child Support or Alimony is a payment by a separated or divorced spouse for the support of children or the spouse. Although the court has ordered (decreed) a monthly amount or an amount was agreed upon, payments may be infrequent or irregular. Only actual payments and not the amount that is supposed to be received should be reported.	Copies of checks or other proof of payments received, court decree or agreement
7. Social Security Retirement is more correctly named Old Age and Survivors Disability Insurance. It actually includes the traditional retirement benefit, payments to survivors (spouses and children), and disability payments. The disability payments are similar to SSI. Please note that younger persons (pre-retirement) and their dependents can also receive disability payments, unless they are retired (over 60).	Social Security retirement benefit letter Official statement of benefits received Monthly check (green in color)
8. SSI or Supplemental Security Income is not a retirement pension: it is a special funding program to assist households with aged, blind, or disabled members. Often, if a child has a learning disability, the household will receive a monthly SSI assistance payment. Please note that some applicants will refer to these payments as "disability" and may not understand that it is a form of Social Security payment (welfare).	SSI eligibility letter SSI check (gold in color) Official statement of benefits received
9. Retirement/Pension refers to non-Social Security retirement. It includes private pensions, State pensions, veterans and/or military retirement and the like.	Official statement of benefits received Pension award notice
10. RR Benefit or Railroad Retirement is a special government retirement fund for former employees of the railroads. Payments can be made to survivors (spouses and children).	Official statement of benefits received Railroad retirement award letter
11. Veteran's Payments is money paid periodically by the Veterans Administration to disabled members of the Armed Forces or the survivors of deceased veterans.	Official statement of benefits received Veterans Administration award notice
12. Rental Income is room and board payments by non-household members living in the home.	Rental agreement or letter from non-household members stating amount paid
13. Military Housing Allowances may be received if an adult member of the household is a member of the military and if the household is located off base.	Leave and Earnings Statement. Letter from the base commander stating amount and frequency of allowance
14. Zero Income. On occasion, a household may report no income on the application. Zero income might be reported if a parent is a live-in housekeeper and receives only room and board as compensation for work done, or if a household is being supported by non-monetary means provided by religious or civic organizations because of illness or disability. A household can be asked to provide a written statement describing the household's circumstances: i.e., how the household pays for food, housing, etc., when no income is reported. In lieu of requesting such a written statement, you may want to use a collateral contact approach to verify the application. A foster child or institutionalized household may also report zero income on the application.	Written statement from household describing how it subsists Collateral contact

**Chapter 7. Meal Planning and Service**  
**§701. General**

A. The USDA School Meals Initiative for Healthy Children underscores our national health responsibility to provide healthy school meals that are consistent with the recommended Dietary Allowances (RDA), age appropriate caloric goals and the Dietary Guidelines for Americans. Every School Food Authority (SFA) should strive to serve meals that are nutritionally adequate, attractive, and moderately priced.

B. SFAs shall ensure that schools provide to children meals that meet the USDA School Meals Initiative for

Healthy Children's nutrition goals. The nutritional goal of school lunches, when averaged over one week, is to provide one-third of the RDA for protein, calcium, iron, vitamin A, and vitamin C in the applicable age or grade groups as well as the energy allowances based on the appropriate age or grade groups and meal patterns listed in Appendices A, B, and C of this chapter. Breakfast should provide one-fourth of students' RDA for protein, calcium, iron, vitamin A, and vitamin C in the applicable age or grade groups as well as the energy allowances based on the appropriate age or grade groups and meal patterns listed in Appendices A, B, and C of this chapter. Lastly, school lunches shall follow the

recommendations of the 1990 Dietary Guidelines for Americans with emphasis on limiting total fat to 30 percent based on the actual number of calories offered, limiting saturated fat to 10 percent based on the actual number of calories offered, reducing the levels of sodium and cholesterol and increasing the level of dietary fiber.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2134 (December 2001).

### **§703. Nutrient Standard**

A. A Nutrient Standard is the required level of calories and nutrients needed to meet the nutritional needs of a specific grade/ age group. Planning menus that meet the Nutrient Standards should be the goal of all menu planners. These standards were set using the RDA as a guide to ensure that meals planned would meet the nutritional needs of children based on age.

B. Lunch and breakfast menus should meet the Nutrient Standards when averaged over one week. A week is defined as a minimum of three and a maximum of seven consecutive days. Standards are set for:

1. calories;
2. percentage of calories from total fat;
3. percentage of calories from saturated fat;
4. protein;
5. calcium;
6. iron;
7. vitamin A;
8. vitamin C.

C. The USDA has created minimum required age/grade groups for the different menu planning systems. Required and Optional Nutrient Standards are included in §955: Appendices. Requirements for specific age/grade groupings vary depending on the menu planning option chosen. (Refer to §711: Meal Planning Options to determine which Nutrient Standards to use.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2135 (December 2001).

### **§705. Computerized Nutrient Analysis**

A. A computerized nutrient analysis is used to determine whether the Nutrient Standards are being met for a specific grade/age group. Use of an approved USDA software is required to conduct the analysis. Nutrient analyses of lunch and breakfast menus may be conducted by the SFA or State Agency using protocol developed by the USDA.

B. Nutrients required to be analyzed are calories, total fat, saturated fat, protein, calcium, iron, Vitamin A, and Vitamin C. Additional nutrients and dietary components that will be analyzed are cholesterol, sodium, and fiber. While there are no quantities set for these additional nutrients, they must be included in the analysis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2136 (December 2001).

### **§707. Breakfast and Lunch Production Requirements**

A. SFAs shall ensure that sufficient quantities of food are planned and produced so that meals contain all the required

food/menu items as specified by the menu planning option chosen. Meals shall be planned and produced on the basis of production trends, with the objective of providing one reimbursable lunch and/or breakfast per child per day. Production and participation records shall be maintained to demonstrate positive action toward providing one reimbursable breakfast and/or lunch per child per day.

B. Breakfast must be offered in all public schools if at least 25 percent of the students enrolled are eligible for free or reduced priced meals. If at least 50 percent of the eligible students refuse to participate during any year as demonstrated by sufficient proof to the Louisiana Department of Education (LDOE), the State Board of Elementary and Secondary Education (SBESE) may grant a waiver from the requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2136 (December 2001).

### **§709. Required Documents for Meal Planning Options**

A. The following documents shall be maintained to demonstrate that the required menu components and/or food items in sufficient quantities are offered each day.

#### **1. Standardized Recipes**

a. Standardized recipes are required to be used in food preparation for all menu planning options. A standardized recipe should include at a minimum:

- i. recipe name;
- ii. portion size;
- iii. yield;
- iv. all ingredients with descriptions such as fresh, frozen, dried, chopped, drained;
- v. ingredient amounts in volume or weight;
- vi. instructions for preparation.

#### **2. Manufacturer's Nutrient Analyses and Nutrition Facts Label**

a. SFAs are required to collect and have on file the nutrient analyses or Nutrition Facts labels for all processed food products and foods that do not appear in the USDA Food Buying Guide. Nutrient analyses can be secured from the product's manufacturer or broker or from the USDA's Child Nutrition DataBase. The Nutrition Facts label appears on the product's container or packaging.

b. The nutrient analysis or Nutrition Facts label must provide, at a minimum, the following information:

- i. serving size by volume and weight;
- ii. number of servings per container;
- iii. calories;
- iv. protein;
- v. total fat;
- vi. saturated fat;
- vii. cholesterol;
- viii. sodium;
- ix. total carbohydrate;
- x. dietary fiber;
- xi. vitamin A;
- xii. vitamin C;
- xiii. calcium;
- xiv. iron;

c. Additional nutrients or components may be given and can be included in the nutrient analysis. A sample of a

nutrient analysis and a Nutrition Facts label are shown in §755.E and F.

d. The information provided by the nutrient analysis and the Nutrition Facts label can be used to:

- i. conduct nutrient analyses of menus;
- ii. provide SFAs with a tool to use to compare the nutritional content of like or similar products; and
- iii. serve as an incentive for food companies to improve the nutritional content of the products they produce.

3. Nutrition (CN) Labeling Program/CN Label

a. The CN labeling program is a voluntary, technical assistance program administered by the Food and Nutrition Services (USDA) in conjunction with the Food Safety and Inspection Service (USDA), the National Marine Fisheries Service, and the United States Department of Commerce. This program involves the review of a manufacturer's recipe or product formulation to determine the contribution a serving of a commercially prepared product makes toward food-based meal pattern requirements and a review of the CN label statement to ensure its accuracy. The CN label states component requirements but does not guarantee that the product is acceptable, that it is good for children, or that it meets the Dietary Guidelines or the Nutrient Standards. Products eligible for the CN label are as follows:

- i. commercially prepared products that contribute significantly to the meat/meat alternate component served as the main dish; and
- ii. juice drinks and juice drink products that contain a minimum of 50 percent full-strength juice by volume.

b. Products manufactured in accordance with USDA requirements carry an approved CN label. A CN label statement must be an integral part of the product label and must include all of the following:

- i. the CN logo;
- ii. a six-digit product identification number;
- iii. a statement of the product's contribution toward meeting the meal pattern requirements;
- iv. authorization by USDA/FNS; and

the month and year the label was approved.

c. The CN label should not be confused with Nutrition Facts labels, nutrient analyses, or product formulation statements. A sample of a CN label can be found in §755.G

d. The USDA requires that SFAs be able to document the contribution that processed products make to the meal pattern requirements. Therefore, the SFA must maintain on file a copy of the label for all CN labeled products. CN labels are not required for SFAs using any of the nutrient standard menu planning options. A product formulation or product analysis sheet may be substituted for the CN label where applicable.

e. It is the SFA's responsibility to assure that products received meet specifications and have the correct CN number. The food service manager must be provided with the appropriate information, including serving sizes and crediting information. Depending on the menu planning option chosen, the CN number may be required when completing the Daily Production Record at each school/site.

4. Product Formulation Statement

a. The product formulation statement is a statement prepared and certified by the manufacturer of a prepared (processed) product declaring appropriate ingredient and crediting information. The product formulation statement must:

- i. be on the company's letterhead;
- ii. provide the product name, product code number, portion size/weight, pack, case weight;
- iii. contain a crediting statement;
- iv. contain a certification statement; provide sufficient information for the purchaser to determine whether the crediting statement appears reasonable; and
- vi. be signed by a legally authorized representative of the company.

b. Proper documentation must be maintained on each processed item that is used to meet meal requirements. The food service manager must be provided with the appropriate information including serving sizes and crediting information.

c. A product formulation statement may be used in lieu of a CN label but, unlike the CN label, it does not carry a USDA warranty against losing reimbursement should there be an error. Therefore, SFAs must carefully review the statement to determine the accuracy of the information given prior to purchasing the product. Should a Federal or State review find that the product did not meet meal requirements, an audit exception may be taken. (Refer to the guidance for Reviewing Product Formulation Statement in §955. H., and the sample form in §955. I.)

5. Summary of Required Documents for Meal Planning Options

Meal Planning Option	Standardized Recipes	Manufacturer's Nutrient Analysis or Nutrition Facts Labels	CN Labels or Product Formulation Statements
Traditional Food-based	✓	✓	✓
Enhanced Food-based	✓	✓	✓
Nutrient Standard	✓	✓	
Assisted Nutrient Standard	✓	✓	
Any Reasonable Approach	✓	✓	*

\*Will depend on the option approved. Contact the State Agency for additional information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2136 (December 2001).

**§711. Menu Planning Options**

A. The USDA has created five menu planning options that allow SFAs to plan meals that meet the nutritional needs of school children. SFAs may choose one or more meal planning options to accommodate the schools/sites in their system; however, only one menu planning option may be used at an individual school/site. All menu planning options require breakfast and lunch menus to meet the Nutrient

Standards discussed in §703: Nutrient Standards. The options are listed below.

1. traditional food based menu planning;
2. enhanced food based menu planning;
3. nutrient standard menu planning;
4. assisted nutrient standard menu planning;
5. any reasonable approach.

B. The Traditional and Enhanced Food Based Menu Planning options are similar in that they require the menu planner to plan menus from specific food groups and require minimum quantities of these foods to be offered daily and/or weekly. Required minimum quantities and age groupings are different within these two menu planning options.

C. Nutrient Standard Menu Planning (NSMP) and Assisted Nutrient Standard Menu Planning (ANSMP) require SFAs to plan menus to meet the appropriate nutrient standards, and to analyze their menus for nutrient content using USDA approved nutrient analysis software. The regulations for these options are identical with the exception that SFAs using the ANSMP may have their menu cycles analyzed by an outside entity: e.g., other SFAs, consultants, the State Agency. Unlike the Food Based menu planning options, NSMP and ANSMP do not require specific foods or specific quantities with the exception of fluid milk.

D. Any Reasonable Approach allows SFAs to develop their own menu planning system provided it meets the specific requirements listed in the regulations. SFAs choosing this option must submit a detailed plan to the State Agency for approval prior to implementation.

E. Refer to §711.A.1-5 for detailed information on each menu planning option.

1. Traditional Food Based Menu Planning

a. The Traditional Food Based Menu Planning option requires the use of foods from four specific food groups that are called food components. These foods must be included in the menu each day. A minimum number of servings per day and/or per week are specified for each food component each day.

b. Lunch menus must be planned to meet daily/weekly food component and meal pattern requirements. A lunch must contain a specified quantity of each of four required food components. A minimum of five food items, as shown below, must be offered.

i. Lunch Required Components/Food Items

Lunch Food Components	Lunch Food Items	Sample Lunch
Meat/Meat Alternate	1.Meat/Meat Alternate	Oven Baked Chicken
Vegetable/Fruit	2.Vegetable/Fruit	Green Beans
Grains/Breads	3.Vegetable/Fruit	Chilled Peaches
Milk	4.Grains/Breads	Whole Wheat Roll
	5.Milk	Milk

c. Breakfast menus must be planned to meet daily meal pattern requirements. Students must be offered four food items at breakfast. The food items must be offered in one of the three combinations listed below.

i. Breakfast Combinations Containing Required Components

Combination 1	Or Combination 2	Or Combination 3
1 Serving Milk	1 Serving Milk	1 Serving Milk
1 Juice/Fruit/Vegetable	1 Juice/Fruit/Vegetable	1 Juice/Fruit/Vegetable
2 Grains/Bread	2 Meat/Meat Alternates	1 Grains/Breads
<b>Sample Breakfast</b>	<b>Sample Breakfast</b>	<b>Sample Breakfast</b>
Combination 1	Combination 2	Combination 3
Chocolate Milk	Lowfat Unflavored Milk	Whole Milk
Hash Brown Potatoes	Orange Juice	Fresh Strawberries
Large Biscuit (2 oz.)	Scrambled Egg	Cheese Toast
	Sausage Link	

d. Fluid milk and a food item selected from the Juice/Fruit/Vegetable component must always be offered. The fluid milk may be served as a beverage or on cereal or both; choices of whole milk, reduced fat milk, and lowfat milk should be offered whenever possible.

e. Menu Components

i. To meet the requirements of the National School Lunch/School Breakfast Programs, school meals must contain a specified quantity of each of the food components as described below. The quantities or serving sizes for these components vary according to the age/grade group of the students being served. (Refer to the Traditional School Lunch/Breakfast Pattern charts, §955. J. and K. Note that the charts specify required minimum quantities for different age/grade groups.) Schools are encouraged, but not required, to vary portion sizes by age/grade groups; however, if a school chooses not to vary portion sizes, each group must receive at least the minimum quantities required for that group. In other words, for a given group of students, a school may serve more than the minimum quantity, but not less. In addition to the required food components, larger servings and other foods may need to be served to increase the nutritional quality and acceptability of the meal.

(a). Meat/Meat Alternate

(i.) Any food item used to meet the meat/meat alternate requirement must be listed in the USDA Food Buying Guide or have a Child Nutrition (CN) label or a certified product formulation statement. Foods that may be counted as a meat/meat alternate include lean meat, poultry, or fish; cheese; eggs; cooked dry beans or peas; peanut butter or other nut or seed butters; yogurt; peanuts, soynuts, tree nuts, or seeds. Alternate protein products, as outlined in this section, may also be used as meat alternates. If schools do not offer choices of meat/meat alternates each day, it is recommended that no one meat alternate or form of meat (e.g., ground, diced, pieces) be served more than three times in a single week.

(ii.) The quantity of meat or meat alternate shall be the quantity of the edible portion as served. To be counted as meeting this requirement, the meat or meat alternate shall be served in a main dish or in a main dish and only one other menu item: that is, two menu items are the maximum number that may be used to meet the meat/meat alternate requirement. When two menu items are used, the combination must total the minimum quantity required and the items should be merchandised together and served as a

single item: for example, a soup and sandwich combo may be offered as a menu combination. (Refer to the Traditional School Lunch/Breakfast Pattern charts, §955. J. and K, for quantity requirements by age/grade groups.)

(iii.) Small amounts (less than ¼ oz.) of meat/meat alternates used as garnishes, seasoning, or in breading do not count toward meeting the quantity requirement of the meal. Examples are grated parmesan cheese used as a garnish over spaghetti or egg used in breading. Although use of such garnishes is encouraged, the amounts are not sufficient to make a real nutritional contribution to the meal.

(iv.) Cooked dry beans/peas may be used as a meat/meat alternate or as a vegetable/fruit but cannot meet the requirement for both components in the same meal. The serving size of cooked dry beans/peas is measured by volume, not weight.

(v.) Yogurt may be used to meet all or part of the meat/meat alternate requirement. Yogurt is credited at a ratio of four ounces (weight) or one-half cup (volume) of yogurt for one ounce of meat; the smallest portion that may be credited is two ounces (weight) or one-fourth cup (volume). To be counted, a product must meet the standard of identity for yogurt established by the Federal Drug Administration; noncommercial and/or nonstandardized products—such as frozen yogurt, homemade yogurt, drinkable yogurt products, yogurt-flavored products, yogurt bars, yogurt-covered fruit and/or nuts or similar items—cannot be used. Yogurt may be either plain or flavored, unsweetened or sweetened, fruited or nonfruited; however, the fruit in commercial fruited yogurt products cannot be credited toward the vegetable/fruit component.

(vi.) Nuts and seeds, such as peanuts, soybeans, almonds, pecans, and walnuts, may be used to meet only one-half of the total meat requirement for lunch and must be combined in the same meal with other meat or meat alternates to provide at least the minimum quantity needed for the various age/grade groups. Only one ounce can be served at breakfast. Acorns, chestnuts, and coconuts cannot be counted as a meat alternate.

(vii.) Lowfat and reduced fat cheeses may be credited toward meeting meal pattern requirements on an ounce-per-ounce basis, the same as regular fat cheeses. These products may be served alone or in combination with regular cheese. Cheese food substitutes and cheese spread substitutes have a specific standard of identity and receive the same credit as cheese foods and cheese spreads (two ounces provide one ounce of equivalent meat alternate). Cheese substitutes (natural or processed) include reduced fat, lite, or nonfat products. Any product that is labeled as “imitation” or that has only the name “cheese product” cannot be counted toward the meat requirement.

(viii.) Two alternate foods are authorized to meet part of the meat/meat alternate requirement: enriched macaroni with fortified protein and alternate protein products (APP).

#### [1.] Enriched Macaroni With Fortified Protein

[a.] Dry enriched macaroni with fortified protein may be used to meet no more than 50 percent of the meat requirement and must be combined with meat, poultry, fish, or cheese. An enriched macaroni product with fortified

protein may credit toward the meat/meat alternate or the grains/breads requirement, but not as both components in the same meal. Only those products that appear on the USDA listing of acceptable enriched macaroni with fortified protein and that have the following statement on the label may be used: "One ounce dry weight of this product meets one-half of the meat or meat alternate requirements of lunch or supper of the USDA Child Nutrition Programs when served in combination with one or more ounces of cooked meat, poultry, fish, or cheese." (Contact the State Agency concerning the current list of Approved Enriched Macaroni With Fortified Protein.)

#### [2.] Alternate Protein Products

[a.] A SFA may use alternate protein products to fulfill all or part of the meat/meat alternate component in the Traditional Food Based Menu Pattern. The alternate protein product may be used alone or in combination with other food ingredients. They may be used in the dry form (nonhydrated), partially hydrated or fully hydrated form. The moisture content of the fully hydrated product (if prepared from a dry concentrated form) must be such that the mixture will have a minimum of 18 percent protein by weight or equivalent amount for the dry or partially hydrated form (based on the level that would be provided if the product were fully hydrated).

[b.] A school may use commercially prepared meat or meat alternate products combined with alternate protein products or may use a commercially prepared product that contains only alternate protein products.

[c.] An alternate protein product whether used alone or in combination with meat or other meat alternates must meet the criteria listed below.

[i.] The product must be processed so that some portion of the nonprotein constituents of the food is removed and must be a safe and suitable edible product produced from plant or animal sources.

[ii.] The biological quality of the protein must be at least 80 percent that of casein, determined by performing a Protein Digestibility Corrected Amino Acid Score (PDCAAS).

[iii.] The product must contain at least 18 percent protein by weight when fully hydrated or formulated. Hydrated or formulated refers to a dry alternate protein product and the amount of water, fat, oil, colors, flavors or any other substances that have been added.

[d.] Manufacturers supplying an alternate protein product must provide documentation that the product meets all of the above criteria. In addition, manufacturers should provide information on the percent protein contained in the dry alternate protein product and on an as prepared basis.

[e.] Manufacturers should provide the following information for an alternate protein product mix:

[i.] the amount by weight of dry alternate protein product in the package;

[ii.] hydration instructions; and

[iii.] instructions on how to combine the mix with meat or other meat alternates.

#### (b.) Vegetable/Fruit

(i.) Two or more servings of different vegetables and/or fruits must be offered to meet the

vegetable/fruit requirement at lunch. Menu items such as fruit cocktail or mixed vegetables are considered as only one serving. However, large combination vegetable/fruit salads served as an entree that contains at least the minimum daily requirement of vegetables/fruits in combination with a meat/meat alternate, such as a chef's salad or a fruit plate with cottage cheese, are considered as two (or more) servings of vegetable/fruit and will meet the full requirement.

(ii.) Full-strength vegetable or fruit juice may not be used to meet more than one-half of the total vegetable/fruit requirement at lunch. Any product, liquid or frozen, labeled as "juice," "full-strength juice," "single-strength juice," or "reconstituted juice" is considered full strength. Liquid or frozen "juice drinks" may contain only a small amount of full-strength juice. If used to meet a part of the vegetable/fruit requirement for lunch, the product must contain a minimum of 50 percent full-strength juice. Only the full-strength juice portion may be counted toward meeting the vegetable/fruit component requirement. At breakfast, only full-strength juice may be served to meet the vegetable/fruit requirement.

(iii.) Cooked dry beans or peas may be used as a meat alternate or as a vegetable, but not as both food components in the same meal. Potato chips, corn chips, and other similar chips may not be counted as a vegetable/fruit. Small amounts (less than 1/8 cup) of vegetables/fruits used for flavoring or as a garnish, may not be counted toward the vegetable/fruit requirement.

(iv.) Generally, most vegetables and fruits that are to be used are listed in the USDA Food Buying Guide. In some situations, the main dish may have a CN label that documents the Fruit/Vegetable contribution. In situations where neither is not the case, a certified product formation statement on the product from the manufacturer yield information on the product must be maintained on file in the SFA to indicate the contribution toward the meal requirements.

(c.) Grains/Breads

(i.) Unlike other components, the grains/breads requirement is based on minimum daily servings and total servings per week. The daily minimum requirement of grains/breads for children ages three and over is one serving per day and eight servings over a five day week; a 10 servings per week option meets the requirement for grades 7-12. For each day less than a five day week, the school may decrease the number of servings per week by approximately 20 percent (one-fifth). For Residential Child Care Institutions (RCCIs), the number of servings should be increased by approximately 20 percent (one-fifth) for each day beyond the five day week. Use the chart below to determine the number of grains/breads servings needed.

(ii.) Number of Required Grains/Breads Servings

Days in Week	Preschool	Grades K-3	Grades 4-12	Optional Grades 7-12
7	11 ¼	11 ¼	11 ¼	14
6	9 ¾	9 ¾	9 ¾	12
5	8	8	8	10
4	6 ½	6 ½	6 ½	8
3	5	5	5	6
2	3 ¼	3 ¼	3 ¼	4
1	1 ¾	1 ¾	1 ¾	2

(iii.) At least one full-sized serving of grains/breads must be offered with lunch each day. When a school offers a choice of two or more menus, the largest number of grains/breads servings offered is counted toward the per week requirement. One-fourth of a serving is the smallest amount that can be credited toward the grains/breads requirement. Grains/breads servings offered at breakfast cannot be counted as contributing to the requirements for lunch.

(iv.) Snack type items such as hard pretzels and chips made from enriched or whole-grain meal or flour as well as bran and/or germ may be credited. (Refer to the Grains/Breads for Food Based Menu Planning chart in § 955. L. for specific food item and serving size requirements.)

(v.) Enriched macaroni products with fortified protein may be used to meet the grains/breads requirement or to meet a part of the meat/meat alternate requirement but not both in the same meal. (Refer to § 911.A.1.e (i)(a): Meat/Meat Alternate, Enriched Macaroni With Fortified Protein.)

(vi.) The criteria listed below are used as the bases for crediting items to meet the grains/breads requirement. (For specific food item and serving size requirements, refer to § 955. L: Grains/Breads for Food Based Menu Planning chart.)

[1.] All grains/breads items must be enriched or whole grain or made from enriched or whole grain meal or flour; or if that item is a cereal, the product must be whole grain, enriched or fortified. Bran and germ are credited the same as enriched or whole grain meal or flour. Crediting of foods is determined by the total amount of enriched flour and/or whole-grain in the recipe and by the number of servings the recipe yields. When enriched or whole-grain meal and/or flour are used as an ingredient in a product or in a recipe, 14.75 grams of the meal and/or flour must be present in order for the serving to be counted as one full serving.

[2.] The label must indicate that the product is enriched or whole grain; is made from enriched or whole grain meal or flour, as well as bran and/or germ; or is fortified. If the product is enriched, the item must meet the Food and Drug Administration's Standards of Identity for enriched bread, macaroni and noodle products, rice, or cornmeal or corn grits.

[3.] The item must be provided in quantities specified in the regulations and in minimum serving sizes as specified in the Grains/Breads for Food Based Menu Planning chart in §755.L.

(d.) Milk

(i.) Schools are required to offer fluid milk at breakfast and lunch . All milk served shall be pasteurized fluid types of milk that meet State and local standards. Whole and unflavored lowfat milk should be offered. Lowfat milk is defined by the Food and Drug Administration (FDA) as milk that contains no more that 3 grams of fat per 8 fluid ounce serving.

(ii.) Schools are required to offer a variety of fluid milk consistent with student preferences in the prior year; however, if a specific type of milk represents less than 1 percent of the total amount of milk consumed in the previous year, the school may elect not to offer that

particular type of milk. Each student must be allowed to select his/her choice from the milk varieties available. If a milkshake is offered as part of the reimbursable lunch, it must contain, at a minimum, eight ounces of fluid milk.

(iii.) No other beverage may ever be offered as a choice against milk. A school may offer another beverage in addition to milk as long as students can take both at no extra charge. A student who accepts milk shall not be charged an additional amount for juice or bottled water if these items are given away at no charge to those students who refuse milk. The student's decision to accept or decline milk cannot be used to determine whether the school will charge that student for another beverage.

(e.) Other Foods

(i) Other foods refers to food items that do not meet the requirements for any component in the meal patterns. They are frequently used as condiments and seasonings, to improve meal acceptability, and to satisfy the students' appetites. Other foods supply calories that help to meet the energy needs of growing children and contribute varying amounts of protein, vitamins, and minerals essential to good nutrition. Since many of these foods are high in salt, sugar, or fat, the amount and frequency of use should be limited. Other foods must be included as part of the nutrient analysis conducted.

f. Offer Versus Serve

i. Offer versus Serve is a serving method designed to reduce food waste and program costs without jeopardizing the nutritional integrity of the meals offered and served to students. SFAs are required to implement Offer versus Serve at the senior high grade levels at lunch; this option may be extended to students below the senior high level. Offer versus Serve is optional at all grade levels at breakfast.

ii. In schools not implementing Offer versus Serve, a student must take all food items offered. In schools implementing Offer versus Serve, students are allowed to refuse a specified number of food items as described below. The refused food item may be any of the food items offered. Offer versus Serve does not affect the unit price of the meal; the price remains the same regardless of whether students select three, four, or all five-food items/components offered.

(a.) Lunch

(i.) Students must be offered all five required food items at lunch. The serving size of each of the five food items must equal the minimum quantities as specified in the Traditional School Lunch Pattern chart in §955.J. Two separate vegetable/fruit food items must be offered. The combined serving size of these items must total the required minimum quantity by age/grade group for the vegetable/fruit component.

(ii.) Senior high school students shall be permitted to decline a maximum of two of the five required food items. For a lunch to be reimbursable, a senior high school student must take the full portions of three of the five required food items offered. Students are not required to take specific food items as long as at least three of the five items offered are chosen.

(iii.) Offer versus Serve is optional for elementary, middle, and junior high school students. When Offer versus serve is implemented at the elementary, middle, and junior high levels, the SFA may decide whether a

student is allowed to decline two food items or only one food item. If the SFA elects the four-food item minimum, a three-item lunch is incomplete and cannot be claimed for reimbursement.

(iv.) When a student has turned down a full portion of one or two items, the student may be offered a smaller portion of those items. However, the smaller portion(s) cannot count toward meeting the requirements for a reimbursable meal. Double servings of any food item will not count as two of the required items. The required three or four servings must be from different food items.

(v.) A combination of two different meat/meat alternates may be served in the main dish and one other menu item; however, Both items must be taken in order to count the meat/meat alternate food item toward meeting the requirements of a reimbursable meal. The smallest serving size that can be counted as a vegetable/fruit component is 1/8 cup only if 1/8 cup was the planned serving size. For two servings of different fruit/vegetable items to count as two of the required food items, the serving sizes must meet the component quantity requirements for that grade group. For example, if using the two meal patterns, the two different fruit/vegetable items together must equal 1/2 cup for K3 students and 3/4 cup for 412 students.

(vi.) The USDA Healthy School Meals Training Manual, Meal Pattern Requirements and Offer versus Serve Manual (FNS-265) and the USDA video, Recognizing Reimbursable Meals in the National School Lunch and School Breakfast Programs provide additional guidance concerning the Offer versus Serve provision at lunch.

(b.) Breakfast

(i.) Students must be offered all four-food items as listed in the Traditional School Breakfast Pattern chart in §955.K. SFAs are allowed, but not required, to implement Offer versus Serve at breakfast. Under this provision, students may decline one food item. The decision as to which food item to decline rests solely with the student. In schools not implementing Offer versus Serve, a student must take full portions of all food items offered.

(ii.) Three food items from at least two different food components are required for a reimbursable breakfast. To count as a component, the student must take a full serving of that component. The full serving may be one food item or may be split among two or more food items of the same component (i.e. grains/breads or meat/meat alternate), as long as the combined total quantity served is equal to a full serving of that component: for example, one full serving equals 1/2 slice toast and 1/2 oz. whole grain or enriched cereal or 1/2 oz. lean meat and 1/2 oz. cheese.

(iii.) However, if the student selected only a half-serving of grains/breads and a half-serving of meat/meat alternate such as a half slice of cheese toast (1/2 oz. cheese + 1/2 slice bread), no credit would be given for either the meat/meat alternate or the grains/breads.

(iv.) A double serving of grains/breads or meat/meat alternate will count as two food items toward the breakfast requirements: e.g., one large biscuit (2 oz.) or egg and cheese omelet (1/2 large egg and 1 oz. cheese). A second serving of vegetable/fruit or a second serving of milk will not count toward the breakfast requirements.

(v.) Combination food items, such as breakfast pizzas, burritos or fruit turnovers, can be counted as only two items, regardless of the size, weight, or number of food items the product contains.

(vi.) The USDA Healthy School Meals Training Manual, Meal Pattern Requirements and Offer versus Serve Manual (FNS-265) and the USDA video, Recognizing Reimbursable Meals in the National School Lunch and School Breakfast Programs provide additional information concerning the Offer versus Serve provision at breakfast.

g. Nutrient Standards and Analysis Requirements

i. SFAs shall ensure that participating schools provide nutritious and well-balanced meals that meet the Nutrient Standards as required by program regulations. The State Agency shall conduct a nutrient analysis of menus for one school week to determine whether the Nutrient Standards have been met. (Refer to §755.A: Required Nutrient Standards for Traditional Food Based Menu Planning.) If the SFA chooses to conduct its own analysis, the State Agency will review the SFA's nutrient analysis. SFAs must follow Nutrient Standard Menu Planning protocols to use the SFA's analysis. (Refer to §705: Computerized Nutrient Analysis for additional information.)

h. Substitutions

i. The school meal patterns specify fluid milk as a component; the only substitutions allowed are for documented medical reasons on a case by case basis. (Refer to §727: Meal Substitutions for Medical or Dietary Reasons.) Ethnic or religious reasons may also permit substitutions if approved by the Food and Nutrition Services of USDA. (Contact the State Agency for specific information.)

2. Enhanced Food Based Menu Planning

a. The Enhanced Food Based Menu Planning option requires the use of foods from four specific food groups that are called food components. These foods must be included in the menu each day. A minimum number of servings per day and/or per week are specified for each food component.

b. Lunch menus must be planned to meet daily/weekly food component and meal pattern requirements. A lunch must contain a specified quantity of each of four required food components. A minimum of five food items, as shown below, must be offered each day.

I. Lunch Required Components/Food Items

Lunch Food Components	Lunch Food Items	Sample Lunch
Meat/Meat Alternate	1. Meat/Meat Alternate	Oven Baked Chicken
Vegetable/Fruit	2. Vegetable/Fruit	Green Beans
Grains/Breads	3. Vegetable/Fruit	Chilled Peaches
Milk	4. Grains/Breads	Whole Wheat Roll
	5. Milk	Milk

c. Breakfast menus must be planned to meet daily meal pattern requirements. Students must be offered four food items at breakfast. The food items must be offered in one of the three combinations listed below.

i. Breakfast Combinations Containing Required Components

Combination 1	Or Combination 2	Or Combination 3
1 Serving Milk	1 Serving Milk	1 Serving Milk
1 Juice/Fruit/Vegetable	1 Juice/Fruit/Vegetable	1 Juice/Fruit/Vegetable
2 Grains/Breads	2 Meat/Meat Alternates	1 Grains/Breads
		1 Meat/Meat Alternate
Sample Breakfast Combination 1	Sample Breakfast Combination 2	Sample Breakfast Combination 3
Chocolate Milk	Lowfat Unflavored Milk	Whole Milk
Hash Brown Potatoes	Orange Juice	Fresh Strawberries
Large Biscuit (2 oz.)	Scrambled Egg	Cheese Toast
	Sausage Link	

d. Fluid milk and a food item selected from the Juice/Fruit/Vegetable component must always be offered. The fluid milk may be served as a beverage or on cereal or both; choices of whole milk, reduced fat milk, and lowfat milk should be offered whenever possible.

e. Menu Components

i. To meet the requirements of the National School Lunch/School Breakfast Programs, school meals must contain a specified quantity of each of the food components as described below. The quantities or serving sizes for these components vary according to the age/grade group of the students being served. (Refer to the Enhanced School Lunch/Breakfast Pattern charts found in §755.M and N. Note that the charts specify required minimum quantities for different age/grade groups.) Schools are encouraged, but not required, to vary portion sizes by grade groups; however, if a school chooses not to vary portion sizes, each group must receive at least the minimum quantities required for that group. In other words, for a given group of students, the school may serve more than the minimum quantity, but not less. In addition to the required food components, larger servings and other foods may need to be served to increase the nutritional quality and acceptability of the meal.

(a.) Meat/Meat Alternate

(i.) The Any food item used to meet the meat/meat alternate requirement must be listed in the USDA Food Buying Guide or must have a Child Nutrition (CN) label or a certified product formulation statement. Foods that may be counted as a meat/meat alternate include lean meat, poultry or fish; cheese; egg; cooked dry beans or peas; peanut butter or other nut or seed butters; yogurt; peanuts, soy nuts, tree nuts, or seeds. Alternate protein products, as outlined in this section, may also be used as meat alternates. If schools do not offer choices of meat/meat alternates each day, it is recommended that no one meat alternate or form of meat (e.g., ground, diced, pieces) be served more than three times in a single week.

(ii.) The quantity of meat or meat alternate shall be the quantity of the edible portion as served. To be counted as meeting this requirement, the meat or meat alternate shall be served either in a main dish or in a main dish and only one other menu item: that is, two menu items are the maximum number that may be used to meet the meat/meat alternate requirement. When two menu items are used, the combination must total the minimum quantity



required, and the items should be merchandised together and served as a single item. For example, a soup and sandwich combo may be offered as a menu combination. (For quantity requirements by age/grade groups, refer to §755.M and N: Enhanced School Lunch/Breakfast Pattern Charts.)

(iii.) Small amounts (less than ¼ oz.) of meat/meat alternates used as garnishes, seasoning, or in breading do not count toward meeting the quantity requirement of the meal. Examples are grated parmesan cheese used as a garnish over spaghetti or egg used in breading. Although use of such garnishes is encouraged, the amounts are not sufficient to make a real nutritional contribution to the meal.

(iv.) Cooked dry beans/peas may be used as a meat/meat alternate or as a vegetable/fruit but cannot meet the requirement for both components in the same meal. The serving size of cooked dry beans/peas is measured by volume, not weight.

(v.) Yogurt may be used to meet all or part of the meat/meat alternate requirement. Yogurt is credited at a ratio of four ounces (weight) or one-half cup (volume) of yogurt for one ounce of meat; the smallest portion that may be credited is two ounces (weight) or one-fourth cup (volume). To be counted, a product must meet the standard of identity for yogurt established by the Federal Drug Administration; noncommercial and/or nonstandardized products such as frozen yogurt, homemade yogurt, drinkable yogurt products, yogurt-flavored products, yogurt bars, yogurt-covered fruit and/or nuts or similar items cannot be used. Yogurt may be either plain or flavored, unsweetened or sweetened, fruited or nonfruited; however, the fruit in commercial fruited yogurt products cannot be credited toward the vegetable/fruit component.

(vi.) Nuts and seeds, such as peanuts, soybeans, almonds, pecans, and walnuts, may be used to meet only one-half of the total meat requirement for lunch and must be combined in the same meal with other meat or meat alternates to provide at least the minimum quantity needed for the various age/grade groups. Only one ounce can be served at breakfast. Acorns, chestnuts, and coconuts cannot be counted as a meat alternate.

(vii.) Lowfat and reduced fat cheeses may be credited toward meeting meal pattern requirements on an ounce-per-ounce basis, the same as regular fat cheeses. These products may be served alone or in combination with regular cheese. Cheese food substitutes and cheese spread substitutes have a specific standard of identity and receive the same credit as cheese foods and cheese spreads (two ounces provide one ounce of equivalent meat alternate). Cheese substitutes (natural or processed) include reduced fat, lite, or nonfat products. Any product that is labeled as "imitation" or that has only the name "cheese product" cannot be counted toward the meat requirement.

(viii.) Two alternate foods are authorized to meet part of the meat/meat alternate requirement: enriched macaroni with fortified protein and alternate protein products (APP).

[1.] Enriched Macaroni With Fortified Protein

[a.] Dry enriched macaroni with fortified protein may be used to meet no more than 50 percent of the meat requirement and must be combined with meat, poultry,

fish, or cheese. An enriched macaroni product with fortified protein may credit toward the meat/meat alternate or the grains/breads requirement, but not as both components in the same meal. Only those products that appear on the USDA listing of acceptable enriched macaroni with fortified protein and that have the following statement on the label may be used: "One ounce dry weight of this product meets one-half of the meat or meat alternate requirements of lunch or supper of the USDA Child Nutrition Programs when served in combination with one or more ounces of cooked meat, poultry, fish, or cheese." (Contact the State Agency concerning the current list of Approved Enriched Macaroni With Fortified Protein.)

## [2.] Alternate Protein Products

[a.] A SFA may use alternate protein products to fulfill all or part of the meat/meat alternate component in the Enhanced Food Based Menu Pattern. Alternate protein products may be used alone or in combination with other food ingredients. They may be used in the dry form (nonhydrated), partially hydrated form, or fully hydrated form. The moisture content of the fully hydrated product (if prepared from a dry concentrated form) must be such that the mixture will have a minimum of 18 percent protein by weight or equivalent amount for the dry or partially hydrated form (based on the level that would be provided if the product were fully hydrated).

[b.] Schools may use commercially prepared meat or meat alternate products combined with alternate protein products or may use a commercially prepared product that contains only alternate protein products.

[c.] An alternate protein product whether used alone or in combination with meat or other meat alternates must meet the criteria listed below.

[i.] The product must be processed so that some portion of the nonprotein constituents of the food is removed and must be a safe and suitable edible product produced from plant or animal sources.

[ii.] The biological quality of the protein must be at least 80 percent that of casein, determined by performing a Protein Digestibility Corrected Amino Acid Score (PDCAAS).

[iii.] The product must contain at least 18 percent protein by weight when fully hydrated or formulated. Hydrated or formulated refers to a dry alternate protein product and the amount of water, fat, oil, colors, flavors or any other substances that have been added.

[d.] Manufacturers supplying an alternate protein product must provide documentation that the product meets all of the above criteria. In addition, manufacturers should provide information on the percent protein contained in the dry alternate protein product and on an "as prepared" basis.

[e.] Manufacturers should provide the following information for an alternate protein product mix:

[i.] the amount by weight of dry alternate protein product in the package;

[ii.] hydration instructions; and

[iii.] instructions on how to combine the mix with meat or other meat alternates.

(b). Vegetable/Fruit

(i.) Two or more servings of different vegetables and/or fruits must be offered to meet the vegetable/fruit requirement at lunch. Menu items such as fruit cocktail or mixed vegetables are considered as only one serving. However, large combination vegetable/fruit salads served as an entree that contains at least the minimum daily quantity of vegetables/fruits in combination with a meat/meat alternate—such as a chef’s salad or a fruit plate with cottage cheese—are considered as two (or more) servings of vegetable/fruit and will meet the full requirement.

(ii.) For children in kindergarten through grade six, the lunch requirement for the vegetable/fruit component is based on minimum daily servings plus an additional ½ cup in any combination over a five-day period. (Refer to the Enhanced School Lunch/Breakfast Pattern charts in §755.M and N for specific serving sizes or quantity requirements by age/grade groups.)

(iii.) Full-strength vegetable or fruit juice may not be used to meet more than one-half of the total vegetable/fruit requirement at lunch. Any product, liquid or frozen, labeled as "juice," "full-strength juice," "single-strength juice," or "reconstituted juice" is considered full strength. Liquid or frozen “juice drinks” may contain only a small amount of full-strength juice. If used to meet a part of the vegetable/fruit requirement for lunch, the product must contain a minimum of 50 percent full-strength juice.; Only the full-strength juice portion may be counted toward meeting the vegetable/fruit component requirement. At breakfast, only full-strength juice may be counted toward meeting the vegetable/fruit requirement.

(iv.) Cooked dry beans or peas may be used as a meat alternate or as a vegetable, but not as both food components in the same meal. Potato chips, corn chips, and other similar chips may not be counted as a vegetable/fruit. Small amounts (less than 1/8 cup) of vegetables/fruits used for flavoring or as a garnish, may not be counted toward the vegetable/fruit requirement.

(v.) Generally, most vegetables and fruits that are to be used are listed in the USDA Food Buying Guide. In some situations, the main dish may have a CN label that documents the Fruit/Vegetable contribution. In situations where When neither is not the case, a certified product formation statement on the product from the manufacturer yield information on the product must be maintained on file in the SFA to indicate the contribution toward the meal requirements.

(c.) Grains/Breads

(i.) Unlike other components, the grains/breads requirement is based on minimum daily servings and total servings per week. The daily minimum requirement of grains/breads for children ages three and over is one serving per day and eight servings over a five day week; 12 servings per week for grades K-6; 15 servings per week for grades 7-12; and a 10 servings per week option for grades K-3. For each day less than a five day week, the school may decrease the number of servings per week by approximately 20 percent (one-fifth). For Residential Child Care Institutions (RCCIs), the number of servings should be increased by approximately 20 percent (one-fifth) for each day beyond the five day week. (Use the chart below to help determine the number of grains/breads servings needed.)

(ii.) Number of Required Grains/Breads Servings

Days in Week	Preschool	Grades K-6	Grades 7-12	Optional Grades K-3
7	11 ¼	17	21	14
6	9 ¾	14 ½	18	12
5	8	12	15	10
4	6 ½	9 ¾	12	8
3	5	7 ¼	9	6
2	3 ¼	5	6	4
1	1 ¼	2 ½	3	2

(iii.) At least one full-sized serving of grains/breads must be offered with lunch each day. When a school offers a choice of two menus or more menus, the largest number of grains/breads servings offered is counted toward the per week requirement. One-fourth of a serving is the smallest amount that can be credited toward the grains/breads requirement. Grains/breads servings offered at breakfast cannot be counted as contributing to the requirements for lunch.

(iv.) Up to one grains/bread serving per day may be a dessert for grades K-12; dessert type items may not be counted as a grains/breads serving for preschool students. Snack type items such as hard pretzels and chips made from enriched or whole-grain meal or flour as well as bran and/or germ may be credited. (Refer to the Grains/Breads for Food Based Menu Planning chart in §755.L for specific food item and serving size requirements.)

(v.) Enriched macaroni products with fortified protein may be used to meet the grains/breads requirement or to meet a part of the meat/meat alternate requirement but not both in the same meal. (Refer to §711.A.2.e.i.(a)(viii.):Meat/Meat Alternate, Enriched Macaroni with Fortified Protein.)

(vi.) The criteria listed below are used as the bases for crediting items to meet the grains/breads requirement. (For specific food item and serving size requirements, refer to the Grains/Breads for Food Based Menu Planning chart, §755.L.)

[1.] All grains/breads items must be enriched or whole grain or be made from enriched or whole grain meal or flour; or if the item is a cereal, the product must be whole grain, enriched or fortified. Bran and germ are credited the same as enriched or whole grain meal or flour. Crediting of foods is determined by the total amount of enriched flour and/or whole-grain in the recipe and by the number of servings the recipe yields. When enriched or whole-grain meal and/or flour are used as an ingredient in a product or in a recipe, 14.75 grams of the meal and/or flour must be present in order for the serving to be counted as one full serving.

[2.] The label must indicate that the product is enriched or whole grain; is made from enriched or whole grain meal or flour, as well as bran and/or germ; or fortified. If the product is enriched, the item must meet the Food and Drug Administration’s Standards of Identity for enriched bread, macaroni and noodle products, rice, or cornmeal.

[3.] The item must be provided in quantities specified in the regulations and in minimum

serving sizes as specified in the Grains/Breads for Food Based Menu Planning chart in §755.L.

(c.) Milk

(i.) Schools are required to offer milk as a beverage. All milk served shall be pasteurized fluid types of milk that meet State and local standards. Whole and unflavored lowfat milk should be offered. Lowfat milk is defined by the Food and Drug Administration (FDA) as milk that contains one percent or less milk fat.

(ii.) Schools are required to offer a variety of fluid milk consistent with student preferences in the prior year; however, if a specific type of milk represents less than 1 percent of the total amount of milk consumed in the previous year, the school may elect not to offer that particular type of milk. Each student must be allowed to select his/her choice from the milk varieties available. If a milkshake is offered as part of the reimbursable lunch, it must contain, at a minimum, eight ounces of fluid milk.

(iii.) Milk can never be offered as a choice against another beverage. A school may offer another beverage in addition to milk as long as students can take both at no extra charge. A student who accepts milk shall not be charged an additional amount for juice or bottled water if these items are given away at no charge to those students who refuse milk. The student's decision to accept or decline milk cannot be used to determine whether the school will charge that student for another beverage.

(iv.) The school meal patterns specify fluid milk as a component; the only substitutions allowed are for documented medical reasons on a case by case basis. (Refer to §727: Meal Substitutions for Medical or Dietary Reasons. Ethnic or religious reasons may also permit substitutions. (Contact the State Agency for specific information.)

(d.) Other Foods

(i.) Other foods refers to food items that do not meet the requirements for any component in the meal patterns. They are frequently used as condiments and seasonings, to improve meal acceptability, and to satisfy the students' appetites. Other foods supply calories that help to meet the energy needs of growing children and contribute varying amounts of protein, vitamins, and minerals essential to good nutrition. Since many of these foods are high in salt, sugar, or fat, the amount and frequency of use should be limited. Other foods must be included as part of the nutrient analysis conducted.

f. Offer Versus Serve

i. Offer versus Serve is a serving method designed to reduce food waste and program costs without jeopardizing the nutritional integrity of the meals offered and served to students. SFAs are required to implement Offer versus Serve at the senior high grade levels at lunch; this option may be extended to students below the senior high level. Offer versus Serve is optional at all grade levels at breakfast.

ii. In schools not implementing Offer versus Serve, a student must take all food items offered. In schools implementing Offer versus Serve, students are allowed to refuse a specified number of food items as described below. The refused food item may be any of the food items offered. Offer versus Serve does not affect the unit price of the meal; the price remains the same regardless of whether students select three, four, or all five food items offered.

(a.) Lunch

(i.) Students must be offered all five required food items at lunch. The serving size of each of the five food items must equal the minimum quantities as specified in the Enhanced School Lunch Pattern chart in §755.M. Two separate vegetable/fruit food items must be offered. The combined serving size of these items must total the required minimum quantity by age/grade group for the vegetable/fruit component.

(ii.) Senior high school students shall be permitted to decline a maximum of two of the five required food items. For a lunch to be reimbursable, a senior high school student must take the full portions of three of the five required food items offered. Students are not required to take specific food items as long as at least three of the five items offered are chosen.

(iii.) Offer versus Serve is optional for elementary, middle, and junior high school students. When Offer versus serve is implemented at the elementary middle or junior high levels, the SFA may decide whether a student is allowed to decline two food items or only one food item. If the SFA elects the four-food item minimum, a three-item lunch is incomplete and cannot be claimed for reimbursement.

(iv.) When a student has turned down a full portion of one or two items, the student may be offered a smaller portion of those items. However, the smaller portion(s) cannot count toward meeting the requirements for a reimbursable meal. Double servings of any food item will not count as two of the required items. The required three or four servings must be from different food items.

(v.) A combination of two different meat/meat alternates may be served in the main dish and one other menu item; however, Both items must be taken in order to count the meat/meat alternate food item toward meeting the requirements of a reimbursable meal. The smallest serving size that can be counted as a vegetable/fruit component is 1/8 cup only if 1/8 cup was the planned serving size. For two servings of different fruit/vegetable items to count as two of the required food items, the serving sizes must meet the component quantity requirements for that grade group. For example, if using the two meal patterns, the two different fruit/vegetable items together must equal 1/2 cup for K-3 students and 3/4 cup for 4-12 students.

(vi.) The USDA Healthy School Meals Training Manual, Meal Pattern Requirements and Offer versus Serve Manual (FNS-265) and the USDA video, Recognizing Reimbursable Meals in the National School Lunch and School Breakfast Programs provide additional guidance concerning the Offer versus Serve provision at lunch.

(b.) Breakfast

(i.) Students must be offered all four-food items as listed in the Enhanced School Breakfast Pattern chart in §755.N. SFAs are allowed, but not required to implement Offer versus Serve at breakfast. Under this provision, S students may decline one food item. The decision as to which food item to decline rests solely with the student. In schools not implementing Offer versus Serve, a student must take full portions of all food items offered.

(ii.) Three food items from at least two different food components are required for a reimbursable breakfast. For the component to count as a component, the student must take a full serving of that component. The full serving may be one food item or may be split among two or more food items of the same component (i.e. grains/breads or meat/meat alternate), as long as the combined total quantity served is equal to a full serving of that component: for example, one full serving equals ½ slice toast and ½ oz. whole grain or enriched cereal or ½ oz. lean meat and ½ oz. cheese.

(iii.) However, if the student selected only a half-serving of grains/breads and a half-serving of meat/meat alternate such as a half slice of cheese toast (½ oz. cheese + ½ slice bread), no credit would be given for either the meat/meat alternate or the grains/breads.

(iv.) A double serving of grains/breads or meat/meat alternate will count as two food items toward the breakfast requirements: e.g., one large biscuit (2 oz.) or egg and cheese omelet (½ large egg and 1 oz. cheese). A second serving of vegetable/fruit or a second serving of milk will not count toward the breakfast requirements.

(v.) Combination food items, such as breakfast pizzas, burritos or fruit turnovers, can be counted as only two items, regardless of the size, weight, or number of food items the product contains.

(vi.) The USDA Healthy School Meals Training Manual, Meal Pattern Requirements and Offer versus Serve Manual (FNS-265) and the USDA video, Recognizing Reimbursable Meals in the National School Lunch and School Breakfast Programs provide additional guidance concerning the Offer versus Serve provision at breakfast.

#### g. Nutrient Standards and Analysis Requirements

i. SFAs shall ensure that participating schools provide nutritious and well-balanced meals that meet the Nutrient Standards as required by program regulations. The State Agency shall conduct a nutrient analysis of menus for one school week to determine whether the Nutrient Standards have been met. (Refer to § 955. B.: Required Nutrient Standards for Enhanced Food Based Menu Planning.) If the SFA chooses to conduct its own analysis, the State Agency will review the SFA's nutrient analysis. SFAs must follow Nutrient Standard Menu Planning protocols to use the SFA's analysis. (Refer to §705: Computerized Nutrient Analysis for Additional Information.)

#### h. Substitutions

i. The school meal patterns specify fluid milk as a component; the only substitutions allowed are for documented medical reasons on a case by case basis. (Refer to §727: Meal Substitutions for Medical or Dietary Reasons.) Ethnic or religious reasons may also permit substitutions if approved by the Food and Nutrition Services of USDA. (Contact the State Agency for specific information.)

### 3. Nutrient Standard Menu Planning (NSMP)

a. Nutrient Standard Menu Planning (NSMP) requires that meals are planned to meet the appropriate Nutrient Standards and requires computerized nutrient analysis of school meals using a USDA approved software program. NSMP allows menu planners to break away from the food-based method of planning menus and use a variety

of foods to meet the Nutrient Standards without requiring specific food components, with the exception of fluid milk, or and no required amounts, except that Food of Minimal Nutritional Value (FMNV) do not count when served alone.

b. There are three required categories of menu items for lunch. Students must be offered, at a minimum, one serving from each of these categories:

- i. entrée;
- ii. side dish(es);
- iii. fluid milk.

c. Breakfast consists of a minimum of three menu items from two categories:

- i. fluid milk (1 item);
- ii. other menu items (2 items).

d. Although only three menu items are required to be offered at lunch and breakfast, SFAs may need to offer more than three to meet the Nutrient Standards. There are no minimum quantities for any menu item.

e. Choices may be offered within each menu category for lunch and breakfast. However, the number of choices offered does not affect the number of menu items that will constitute a reimbursable breakfast or lunch. The menu planner must assure that the correct number of items is offered and that each week's menu meets the Nutrient Standards.

#### f. Menu Items

i. In NSMP, the menu planner uses menu items instead of food components and food items. A menu item may be a single food or a combination of foods. Whether a food can be counted as one or two menu items is determined by the way the food is served. If two or more foods are grouped together, the food items may be counted as one menu item. If the food items are served separately, they are counted as two menu items: for example, a hamburger patty served on a bun is counted as one menu item, but a hamburger patty served with a bun on the side is counted as two menu items.

##### (a.) Entree

(i.) An entree is a menu item that is a combination of foods or a single food that is served as the main dish. The entree may be any food (i.e., meat, grain, bread, fruit, vegetable, etc.) except fluid milk, condiments, or a food of minimal nutritional value. There is no entree requirement at breakfast. (Refer to §755.O, for a listing of foods of minimal nutritional value.)

##### (b.) Side Dish(es)

(i.) Any menu item offered other than the entree and milk is considered a side dish. The side dish may be any food except condiments or those foods of minimal nutritional value or have foods of minimal nutritional value as the main ingredient.

##### (c.) Milk

(i.) Schools are required to offer fluid milk as a beverage at lunch or as a beverage or on cereal at breakfast. All milk served shall be pasteurized fluid types of milk that meet State and local standards. Whole and unflavored lowfat milk should be offered. Lowfat milk is defined by the Food and Drug Administration (FDA) as milk that contains no more than three grams of fat per eight fluid ounce serving.

(ii.) Schools are required to offer a variety of fluid milk consistent with student preferences in the prior

year; however, if a specific type of milk represents less than 1 percent of the total amount of milk consumed in the previous year, the school may elect not to offer that particular type of milk. Each student must be allowed to select his/her choice from the milk varieties available.

(iii.) No other beverage may ever be offered as a choice against milk. A school may offer another beverage in addition to milk as long as students can take both at no extra charge. A student who accepts milk shall not be charged an additional amount for juice or bottled water if these items are given away at no charge to those students who refuse milk. The student's decision to accept or decline milk cannot be used to determine whether the school will charge that student for another beverage.

(d.) Other Menu Items

(i.) The category, other menu items, refers to any food other than the entree, fluid milk and foods of minimal nutritional value. (Refer to §755.O. for a listing of Foods of Minimal Nutritional Value.) The menu planner may consider the "other menu items" category to be side dishes. Condiments such as relishes, catsup, mustard, mayonnaise, jelly, syrup, gravy, etc. may not be counted as other menu items.

g. Theme Bars

i. Theme bars, such as salad bars, pasta bars, potato bars, may be offered and counted as a reimbursable lunch if they consist of an entree, at least one side dish, and fluid milk.

h. Bag Lunches/Special Meals

i. Meals for field trips or special occasions should be included in the menu analysis. These meals, whether breakfast or lunch, are required to have the minimum number of menu items.

i. Offer Versus Serve

i. Offer versus Serve is a serving method designed to reduce food waste and food costs in the school food service program without jeopardizing the nutritional integrity of the meals offered and served to students. SFAs are required to implement Offer versus Serve at the senior high grade levels at lunch and may implement at elementary, middle and junior high levels. It is optional at all grade levels at breakfast. In schools not implementing Offer versus Serve, a student must take all menu items offered.

ii. Offer versus Serve does not affect the unit price of the meal. The price remains the same regardless of the number of menu items selected.

iii. When implementing Offer versus Serve, the menu planner must first establish how many menu items will constitute a reimbursable lunch or breakfast. SFAs may choose to offer more than the three required items at breakfast and lunch, but it is recommended that the maximum number of items a student may select for a reimbursable meal does not vary from day to day. Students cannot select two servings of the same menu item at breakfast or lunch (i.e., two entrees or two servings of the same side dish) and have them count toward meeting a reimbursable meal.

(a.) Lunch

(i.) Students must be offered, at a minimum, three menu items for lunch: an entree, a side dish, and fluid milk. The student must always select the entree in order to have a reimbursable lunch. When only three menu

items are offered, the student may decline only one item; two items must be selected: the entree and either the side dish or the milk. When more than three menu items are offered, the student may decline no more than two items. With the exception of the entrée, the decision as to which other items to decline rests solely with the student.

Number of Menu Items Offered	Maximum Number That Can Be Declined
3	1
4	2
5	2
6	2

(b.) Breakfast

(i.) Students must be offered a minimum of three menu items for breakfast: fluid milk and two menu items. Regardless of the number of items offered for breakfast, the student may decline a maximum of only one item. Therefore, if three items are offered, the student must select two items; and if four items are offered, the student must select three. The decision as to which item to decline rests solely with the student.

Number of Menu Items Offered	Maximum Number That Can Be Declined
3	1
4	1
5	1
6	1

j. Menu Substitutions

i. Menu substitutions change the nutrient content of a meal; therefore, menus may need to be reanalyzed to ensure that the Nutrient Standards are still being met. Substitutions should be made with a similar food that

(a). plays the same role in the meal, such as, an entree, side dish, or other food; and

(b). is the same type of food: such as meat, fruit, vegetable, bread.

ii. The menu must be reanalyzed if the need for a substitution is known two weeks (14 calendar days) or more prior to the day the original menu item was to be served. When the need to substitute is known for fewer than two weeks (13 calendar days or less), reanalysis is not required; but efforts should be made to substitute a similar food with comparable nutritive value.

iii. The USDA requires a tracking system that documents when the school/site was aware that the substitution was needed and what item(s) were substituted. In addition, substitutions shall be recorded on the Daily Food Production Record.

k. Nutrient Standards and Analysis Requirements

i. SFAs are required to conduct and maintain on a continuous basis nutrient analyses of lunch and breakfast menus prior to meal service. Only USDA approved software may be used to conduct the analyses.

ii. SFAs are allowed the flexibility to use §755.C: The Nutrient Standards from the Required Grade Groupings, §755.D: The Optional Age Groupings, or customized groupings that correspond to the age groups within a specific school/site. (Refer to USDA's Healthy School Meals Manual for additional information on customizing.)

1. Substitutions

i. The school meal patterns specify fluid milk as a component; the only substitutions allowed are for documented medical reasons on a case by case basis. (Refer to §727: Meal Substitutions for Medical or Dietary Reasons.) Ethnic or religious reasons may also permit substitutions if approved by the Food and Nutrition Services of USDA. (Contact the State Agency for specific information.)

4. Assisted Nutrient Standard Menu Planning

a. Assisted Nutrient Standard Menu Planning (ANSMP) is designed for SFAs that lack the technical resources to implement Nutrient Standard Menu Planning but would like to take advantage of its features. This option allows SFAs to use the expertise of outside entities, such as other SFAs, the State Agency, or a consultant, to develop a cycle menu, recipes, procurement specifications and production schedules that will allow school meals to meet the Nutrient Standards. These menus, recipes, etc. must be followed precisely. The SFA must have State Agency approval of initial menu cycle along with nutrient analysis, recipes, product specifications, and any other documentation requested by the State Agency. (For specific requirements, refer to §711.A.3: Nutrient Standard Menu Planning.)

5. Any Reasonable Approach

a. On May 29, 1996, President Clinton signed Public Law 104-149, the Healthy Meals for Children Act, which provides that schools may use any reasonable approach to menu planning that will achieve compliance with the nutrition standards as long as the approach conforms to guidelines issued by the Department of Agriculture. SFAs must obtain State Agency approval prior to implementation. (Contact your State Agency for guidelines.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:2137 (December 2001).

**§713. Infant Meal Patterns**

A. Infants under one year of age shall be served an infant breakfast and/or lunch as specified in §755.P. Foods within the infant meal patterns shall be of the texture and consistency appropriate for the particular age group being served and shall be served to the infant during a span of time consistent with the infant's eating habits.

B. For infants four through seven months, solid foods are optional; solid foods should be introduced only when the infant is developmentally ready. Breast milk or iron-fortified infant formula shall be served to all infants that are less than one year of age.

1. Minimum Quantity Requirements for Breast Milk

a. Since some breastfed infants regularly consume less than the minimum required amount of breast milk, regulations allow a SFA to serve these infants less than the minimum required amount. In these situations, additional breast milk must be offered if the infant is still hungry. It is stressed that this provision is allowed for only breast milk. A SFA must offer required minimum servings for iron-fortified infant formula and other components of the infant meal pattern.

2. Care and Handling of Breast Milk

a. The SFA must ensure that breast milk is stored and handled properly to prevent any contamination. All breast milk served to infants must be labeled with the infant's name and date provided. SFAs must ensure that each child is served only the breast milk supplied by its mother.

3. Reimbursement For Infant Meals

a. A SFA may claim reimbursement for meals that are served to infants younger than four months of age and that contain only breast milk and no other items or four to eight months when breast milk or breast milk and one other item is provided. This regulation applies only to meals for which milk is the only required item and for which breast milk is served. If iron-fortified infant formula is served and is provided by the parent or an agency other than the SFA, reimbursement may not be claimed.

b. Meals served to infants eight months of age or older that require breast milk and at least one additional item cannot be claimed for reimbursement unless the SFA provides at least one item. Also, if the parent supplies the formula, the meal cannot be claimed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:2148 (December 2001).

**§715. Parent and Student Involvement**

A. The SFA shall promote activities to involve students and parents in the Child Nutrition Program(s). Such activities may include menu planning, enhancement of the eating environment, program promotion, and related student-community support activities. SFAs are encouraged to use the school food service program to teach students about good nutrition practices and to involve the school faculty and the general community in activities to enhance the program. (For additional guidance on parent and student involvement, contact the Division of Nutrition Assistance.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:2148 (December 2001).

**§717. Unit Price**

A. All meals shall be priced as a unit. A la carte food service is not permitted. The prices of a reimbursable lunch or breakfast shall not be affected if a student declines any of the food items under the Offer versus Serve provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:2148 (December 2001).

**§719. Meal Times/Split Meals**

A. Breakfast must be served at the beginning of a school day and should be served a minimum of three hours before lunch. Lunch shall be served at or about midday during a period designated by the school administrator. Lunch shall occur between 10:00 a.m. and 2:00 p.m. On school days with an early dismissal, there may not be adequate time for both breakfast and lunch service. The SFA may find it advisable to serve one meal and claim only lunch reimbursement for a brunch-style meal. The required lunch components and quantities must be offered between 10:00 a.m. and 2:00 p.m.

B. With written State approval, schools that serve lunch to children one to five years of age may divide the service of the specified quantities and food items into two distinct service periods.

C. The benefits derived from school meals depend to a large extent on the environment in which they are served. Schools are encouraged to provide adequate time for all students to consume their meals fully in an environment that is conducive to eating those meals. The SBESE recommends that all schools provide a minimum of 30 minutes per lunch period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:2148 (December 2001).

#### **§721. Counter Service**

A. Counter service for all ages with each student handling his or her own plate/tray is required. Menu items shall be served as the student passes down the serving line; plates/trays shall not be preplated. The only exceptions to this serving method are bag lunches, preplated box lunches, cold plates, etc. Variations from counter service and preplating may be allowed for preschool and disabled children. For disabled students, the meal must be served in a manner most suited to the needs of the student. All adults shall be served in front of the regular serving counter.

B. Appropriate flatware and tableware shall be provided at every meal. Spoons should be provided when soup, cold cereal, etc. are served; forks should be provided daily. Plates, trays, and/or food containers shall be used for lunch and breakfast. These meals are not snacks: they must not be served on napkins. Paper napkins and wrapped or dispensed straws shall be provided to all students and adults.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:2149 (December 2001).

#### **§723. Self Service**

A. Self service with students serving themselves is permitted under the conditions listed below.

1. Sneeze guards must be used to protect food.
2. Sufficient long-handled utensils must be available for service.
3. Adequate monitoring must ensure that sanitary food handling practices are followed.
4. Adequate monitoring must ensure that a reimbursable meal is received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:2149 (December 2001).

#### **§725. Plate/Tray Count**

A. Daily plate/tray counts of breakfast and lunch are mandatory in all schools using a manual system for counting meals. Plate counts are optional for systems using a computerized point of service count.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:2149 (December 2001).

#### **§727. Meal Substitutions for Medical or Dietary Reasons**

A. To qualify for reimbursement, schools must provide meals that contain all required food/menu items, as

identified by the menu planning method selected by the SFA. School meals must also comply with the nutrition standards and the nutrient and calorie levels as specified by Federal Regulations. However, meal substitutions or modifications served to students with documented medical or special dietary needs are considered reimbursable and are allowed under the conditions summarized in this section.

B. Any changes to the regular school meal for medical or special dietary reasons must be appropriately documented. Changes to existing diet orders must also be documented. This documentation is required to justify that the modified meal is reimbursable and to ensure that any meal modifications meet nutrition standards that are medically appropriate for the specific child. When special meals or modifications are requested, a form that includes required information should be given to the parent or guardian so that the student's physician may correctly assess the condition and identify meal changes. (Refer to §955. Q. for a prototype form that may be used to obtain needed information.) Although the form itself is not required, either a physician's statement or a diet prescription that includes the same information is required and must be kept on file in the school.

C. The SFA may need a licensed or registered dietitian to provide information on foods to meet a specific diet order or to provide training to food service employees. Use of school food service funds for this purpose is allowed.

##### **1. Students with Disabilities**

a. Schools are required to make substitutions or changes in foods for the student that is unable to eat school meals because of his/her disability. The SFA shall provide these meals at no extra charge to the students whose disability restricts their diet. The students must provide medical certification that details the alternative diet and that certifies that these meals are needed because of the disability.

b. A child with a disability is one who has a physical or mental impairment that substantially limits one or more major life activities. Major life activities are defined to include functions such as "caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working." Schools are required to make substitutions or modifications for those children with disabilities who are unable to consume the food/menu items specified by the menu planning method used by the SFA.

c. Food service personnel are not to make the determination of whether a child has a disability as defined above. Food service shall accept the certification of a physician that an individual student has a disability that restricts his/her diet.

d. On a case-by-case basis, a child with a disability that restricts his/her diet shall be provided substitutions or modifications in foods only when supported by a statement signed by a physician licensed by the State. The physician's medical statement of the child's disability must be based on the regulatory criteria for "children with disabilities" and must contain a finding that the disability restricts the diet. The supporting statement shall identify:

- i. the child's disability, as defined under 7 CFR 15b.3 of the USDA's nondiscrimination regulations, and an explanation of how the disability restricts the child's diet;

- ii. the major life activity affected by the disability;
- iii. the food or foods to be omitted from the child's diet; and
- iv. the food or choice of foods that must be substituted.

e. Generally, children with food allergies or intolerance do not have a disability as defined by Federal Regulations. However, it is possible that such food allergies or intolerance will limit a major life activity. When faced with a request for special meals for such children, the food service personnel must abide by the determination of the physician

f. Food services shall be provided in the most integrated setting appropriate to the needs of children with disabilities. These students must be served in the same dining area as other students unless the Individualized Education Program (IEP) mandates a different location. In situations for which additional food outside the regular meal service is required, school food service is not responsible for this service unless the food service is required under the child's IEP. The school is responsible for any assistance the child needs during meal service. (For additional information, refer to USDA's "Accommodating Children with Special Dietary Needs in the School Nutrition Programs," Guidance for School Food Service Staff, and the IEP Handbook for Students With Disabilities.

2. Students Without Disabilities But With Special Dietary Needs

a. Schools may, at their discretion, make substitutions for individual children who do not have a disability as defined under 7 CFR 15b.3, but who are medically certified as having a special medical or dietary need. Such determinations must be supported by a diet prescription that specifies the need for substitution and that is signed by a recognized medical authority. The State Agency currently accepts the following professionals as recognized medical authorities: physicians, physician assistants, nurse practitioners, and licensed or registered dietitians. A diet prescription submitted by a registered nurse is acceptable only when co-signed by a physician. The diet prescription must include the information provided below:

- i. an identification of the medical or other special dietary need that restricts the child's diet; and
- ii. the food or foods to be omitted from the child's diet and the food or choice of foods to be substituted.

b. Schools are not required to make substitutions for students whose conditions do not meet the definition of "children with disabilities." The special dietary needs of students that do not have a disability may frequently be managed within the regular meal service when a well-planned variety of nutritious foods is available and when Offer versus Serve is implemented.

c. If the authorized substitute foods are not normally kept in inventory or are not generally available in local markets, the parent or guardian should provide the substitute food item prescribed by the recognized medical authority.

3. Ethnic And Religious Variations

a. The Food and Nutrition Services of the USDA may approve variations in the food/menu items required for lunch and breakfast in any school where there is evidence that such variations are nutritionally sound and are necessary

to meet ethnic or religious needs. (Contact the State Agency for additional information.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:2149 (December 2001).

**§729. Nonstudent Meals**

A. The purpose of the school lunch and breakfast programs is to provide nutritious and healthy meals to children. However, certain nonstudents are also allowed to eat. Neither Federal Reimbursement nor children's payments may be used to subsidize nonstudent meals.

1. School System Employees and Visitors

a. Adults working with the school program, school board employees, parents, and other guests of the school are eligible to purchase meals from the school food service department. All persons except school food service employees, roving or area managers assigned to multiple sites, and certain volunteer personnel shall pay for their meals.

b. Adults shall be served the same meals as students, in portions not to exceed that of senior high school students. All foods and beverages available to adults shall be a part of the regular meals served to the students. Adults may have coffee and tea at meal service at their own expense. Serving of meals to persons having no official relationship or connection with the school is not permissible.

2. School Food Service Employee and Volunteer Meals

a. Only school food service employees are eligible to receive one free breakfast and lunch daily. Volunteers and/or custodians who provide food service assistance may receive a free meal in return for their services. The following chart is a guide to follow when allowing volunteer meals.

Average Daily Participation	Recommended Number of Volunteer Meals
1-300	1
301-500	2
501 and above	3

3. Contract Meals

a. SFAs may contract meal service to nonschool programs such as Head Start, day care programs, and elderly feeding programs. There must be an annual contract between the two agencies stipulating the necessary terms. Contracts should protect both parties and be reviewed by an attorney. (Refer to the sample contract in §755.R.) Copies of new and renewed contracts must be submitted to the State Agency. Contracts will become part of the SFA's Permanent Agreement with the State Agency. (Refer to §327.A.1.f: Costing of Contract Meals, for additional information.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:2150 (December 2001).

**§731. Special Functions**

A. Special functions, whether or not the proceeds accrue to school food service, shall not interfere with the preparation and service of school lunch, breakfast, and/or snacks. School food service funds may be used to pay expenses for school functions at which technical information relating to the CN Program is disseminated: for example, the



SFA may provide informational materials and refreshments in conjunction with the school's annual open house that would include a cafeteria visit. A school food service employee must be present and information about the CN Program must be provided. A menu worksheet must be completed to document the foods used, the type of activity, the school food service employees present, the informational materials provided, the topics discussed, and the number of persons attending.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:191-199.

**HISTORICAL NOTE:** Promulgated by Board of Elementary and Secondary Education in LR 27:2150 (December 2001).

### **§733. Catering**

A. Before beginning any catering program, it is essential to have the support of the local school board. It is the responsibility of the SFA to ensure that all costs of the event are recouped, as school food service funds cannot be used for nonstudent meals. At a minimum, these costs shall include food, labor (wages plus benefits), paper and nonfood supplies, transportation and utilities.

B. Separate records must be maintained for catered events for a minimum of three years. All accounting practices shall follow guidelines outlined in Bulletin 1929: Louisiana Accounting and Uniform Governmental Handbook.

C. Listed below are additional guidelines that must be followed:

1. Catered functions shall not interfere with the preparation and service of lunch, breakfast and/or snacks.

2. Charges for any product or service must be sufficient to recover all production costs plus a profit. The amount of the profit is at the discretion of the SFA.

3. All monies earned or received shall accrue to the school food service account.

4. The United States Department of Agriculture's donated foods (commodities) cannot be used for catered functions at which the primary recipients are not participating in the SBP, NSLP, or the CACFP.

5. Documentation of the type of event, date and time, foods and supplies used shall be maintained.

6. Documentation of the employees' time shall be maintained.

7. In order to maintain a tax-exempt status, SFAs may wish to limit catering services to schools, school-sponsored events, and nonprofit organizations. Catering events to the private sector may require the SFA to become a taxing entity with requirements to charge and report sales tax. The local district office of the Louisiana Department of Revenue and Taxation, Sales Tax Division, must be contacted for more specific information.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:191-199.

**HISTORICAL NOTE:** Promulgated by Board of Elementary and Secondary Education in LR 27:2151 (December 2001).

### **§735. Second Servings**

A. Participation and food production records must demonstrate that sufficient quantities of foods/menu items are planned and prepared to provide one reimbursable meal (lunch/breakfast) per student per day. Intentional over-preparation is not allowed. Second servings, when available and allowed by the SFA, may be offered at the close of the serving period to students who have consumed a complete

meal. Leftovers that can be used in another meal should not be given as second servings.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:191-199.

**HISTORICAL NOTE:** Promulgated by Board of Elementary and Secondary Education in LR 27:2151 (December 2001).

### **§737. Extra Sales**

A. Extra items may be sold only to those who have received a complete meal. The purchase of extras must occur at the time the meal is received unless the SFA has a procedure in place to determine that a student has received a complete meal. A-la-carte meal service is prohibited. Extra sale items must meet component requirements as defined by Enhanced Food-Based Menu regulations for the Child Nutrition Programs or must be an item offered on the menu that day. The only exceptions are that milkshakes, yogurt, frozen yogurt, ice cream, and ice milk (as defined by the Louisiana Sanitary Code) may be sold as extras. Full-strength juice, and milk, and bottled water (unflavored with no additives) may be sold at any time during the day to students and adults whether or not they have purchased a meal.

B. Schools must maintain proper accountability for extra sale items and must recover the full cost of producing the extra items plus a profit. At a minimum, these costs shall include food, labor (wages plus benefits), paper and nonfood supplies, transportation and utilities. (Refer to §327.A.1.i: Pricing for Extra Sales Items, for specific information concerning pricing procedures.) All monies earned or received must accrue to the school food service account.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:191-199.

**HISTORICAL NOTE:** Promulgated by Board of Elementary and Secondary Education in LR 27:2151 (December 2001).

### **§739. Extended School Sessions**

A. Some school systems operate a lunch, breakfast and/or snack program during the summer months for students enrolled in an educational program. The total number of operating days for the school year, which includes both regular and extended school sessions, must be shown on the Schedule A. State approval of this document authorizes the receipt of Federal Reimbursement for the extended school sessions.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:191-199.

**HISTORICAL NOTE:** Promulgated by Board of Elementary and Secondary Education in LR 27:2151 (December 2001).

### **§741. Competitive Foods**

A. Grades K-6

1. Reimbursement for lunch, special milk, and/or breakfast may be withheld from schools if concessions, canteens, snack bars, or vending machines are operated on a profit basis before the end of the last lunch period. Such services are operated for profit if the income is not deposited to the nonprofit school food service program account and expended only for Child Nutrition Program purposes.

B. Grades 7-12

1. Reimbursement for lunch, breakfast, and/or special milk may be withheld from schools if concessions, canteens, snack bars, vending machines or other food sales are operated on a profit basis before the last 10 minutes of each lunch period. The official school schedule shall indicate the time for each lunch period and should allow sufficient time

for each student to receive and consume a meal. Such services are operated for profit if the income is not deposited to the nonprofit school food service program account, and expended only for the purpose of the Child Nutrition Program(s).

2. However, grades 7-12 (not allowed in K-6) with multiple lunch periods may operate concessions, canteens, snack bars, vending machines, or other food sales between lunch periods if the following guidelines are implemented:

a. No food item shall be sold before the last 10 minutes in each lunch period.

b. Lunch periods shall be divided by a period of time so that students from one period do not come into contact with students from another period.

c. A system shall be in place to ensure that students do not have access to competitive foods before the last 10 minutes of each lunch period.

3. The SFA shall be required to reimburse the school food service account for any funds withheld for violation(s) of the Competitive Foods Policy. Under no circumstances can foods in competition be sold to children in food service areas during the lunch period(s).

4. School systems must establish local rules or regulations as are necessary to control the sale of foods in competition with meals served under the National School Lunch and Breakfast Programs. The State's competitive foods policy will be managed and monitored by both local and State personnel as follows:

5. Local school food service supervisors will provide principals and superintendents with information concerning the Competitive Foods Policy and regulations in regard to enforcement by the Louisiana DOE. The SFA will maintain documents that indicate each school's official schedule that includes designated times for lunch and concessions, if offered.

6. The SBESE recommends that all schools provide a minimum of 30 minutes per lunch period.

7. All complaints received by State DNA personnel regarding competitive foods violations, regardless of the source, will be forwarded to the local school food service supervisor for initial investigation.

8. Monitoring of competitive foods/concessions shall be conducted in the following manner:

a. Local school food service supervisors will have the responsibility to report to their superintendent/immediate supervisor and the principal in writing any competitive foods violations noted in the school. A written corrective action plan will be required from the principal to the superintendent with a copy to the school food service supervisor to ensure compliance.

b. The State or local SFA will make unannounced visits when notifications of violations are received. The school, organization, or individual(s) violating the competitive foods policy shall reimburse the school food service account for any funds withheld from the school food service program.

9. State DNA personnel will monitor competitive foods operations at local school systems on all State reviews or visits and shall have the responsibility and authority to assess fiscal sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:2151 (December 2001).

#### **§743. Takeout Meal Service**

A. Takeout meal service may be offered when there is an established takeout meal service program. Accurate meal counts, nutrition requirements, and sanitation guidelines must be followed. Student meals may not be removed from the school premises with the exception of planned trips. Breakfasts, lunches and/or snacks purchased by school system employees must be consumed on school board property. Proper disposable flatware and containers must be provided. The removal of permanent service ware from the food service area shall not be allowed. (For additional information, refer to §2307: Food Taken From Schools, and §2125: Sanitation, General Rules.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:2152 (December 2001).

#### **§745. Handling of Food Waste**

A. The Louisiana Sanitary Code prohibits the use of food garbage, either cooked or raw, as feed for swine. If a SFA or school allows any individual/agency to dispose of food waste, a statement that attests to its use must be on file at the school site(s). This statement must be signed by the individual/agency and must indicate that the food waste will not be fed to swine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:2152 (December 2001).

#### **§747. Donations of Leftover Food/Food Recovery Activities**

A. SFAs and school programs may receive inquiries from nonprofit agencies (and the general public) concerning the donation of extra foods prepared by the National School Lunch and Breakfast Programs. Schools may claim reimbursement for only one lunch and/or breakfast served per child per day, and schools are expected to plan and prepare sufficient amounts of food to achieve this goal. However, when the food actually prepared exceeds the amount needed for the reimbursable meal service, leftover foods may be donated to appropriate nonprofit institutions such as soup kitchens or homeless shelters, provided this practice is not prohibited by local laws or regulations and the following conditions are met:

1. participation and menu records demonstrate that overproduction is not intentional;

2. leftover foods cannot be used in the food service program and would otherwise be thrown away;

3. State and local health codes/standards are followed; and

4. on file is a written agreement between the SFA and the nonprofit organization which includes, at a minimum, the following provisions:

a. terms of the agreement;

b. duties of the school system;

c. duties of the contractor;

d. nondiscrimination statement;

e. statement that the contractor is not an officer, employee, or agent of the school system;

f. liability;

- g. hold harmless and indemnification clause; and
- h. certification of liability insurance.

B. §755.S provides for a sample agreement that can be adapted by a SFA desiring to provide leftover food to a charitable nonprofit organization. (For additional information, contact the State Agency.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:2152 (December 2001).

**§749. Use of the Facility**

A. When the school food service department is used by the school or community groups for food service, one or more of the school food service employees shall be in charge to ensure control over school food service foods and to ensure proper use and care of equipment and facilities. If the dining facility is used for food preparation activities other than school food service, wages shall be paid by the organization in accordance with current wage and hour regulations. The school food service department may assess a charge for use of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:2153 (December 2001).

**§751. Removal/Transfer of Equipment, Food and Supplies**

A. Only authorized personnel may transfer equipment, food and supplies between schools. No foods, including leftovers, shall be removed from the school food service department by any employee of the school system. Legal action could result. Local policies that outline disciplinary action for unauthorized removal of equipment, food or supplies must be in place. (Refer to §2307: Food Taken from Schools, and §323.H: Disposition of Equipment for more information.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:2153 (December 2001).

**§753. Foods/Beverages Allowed in Cafeteria During Meal Service**

A. School Food Authorities are encouraged to develop a policy that prohibits adults and students from taking carbonated beverages into the cafeteria during meal service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:2153 (December 2001).

**§755. Appendices**

A. Required Nutrient Standards for Traditional Food-Based School Lunches and Breakfasts

B. Required Nutrient Standards for Enhanced Food-Based School Lunches and Breakfasts

C. Required Nutrient Standards for Nutrient Standard and Assisted Nutrient Standard Lunches and Breakfasts

D. Optional Nutrient Standards for Nutrient Standard and Assisted Nutrient Menu Planning

E. Sample Child Nutrition (CN) Label

F. Instructions for Reviewing Product Formulation Statements

G. Sample Certified Product Formulation Statement For Meat/Meat Alternate Products

H. Traditional School Lunch Meal Pattern

I. Traditional School Breakfast Meal Pattern

J. Grains/Breads for Food Based Menu Planning Chart

K. Enhanced Food-based Menu Plan for Lunch

L. Enhanced Food-based Menu Plan for Breakfast

M. Infant Breakfast and Lunch Meal Pattern

N. Prototype Agreement for Donation of Leftover Food Items Sample Certified Product Formulation Statement For Prepared Grains/Breads

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: 191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:2153 (December 2001).

**Appendix A. Required Nutrient Standards for Traditional Food-Based School Lunches and Breakfasts**

Minimum Requirements For Nutrient Levels For School Lunches Traditional Food-Based Alternative (School Week Averages)				
Nutrients And Energy Allowances	Minimum Requirements			Optional
	Preschool	Grades K-3	GRADES 4-12	GRADES 7-12
Energy allowances (calories)	517	633	785	825
Total fat (as a percentage of actual total food energy)	<sup>1</sup>	1	1	1
Total saturated fat (as a percentage of actual total food energy)	2	2	2	2
Protein (g)	7	9	15	16
Calcium (mg)	267	267	370	400
Iron (mg)	3.3	3.3	4.2	4.5
Vitamin A (RE)	150	200	285	300
Vitamin C (mg)	14	15	17	18

<sup>1</sup> Not to exceed 30 percent over a school week

<sup>2</sup> less than 10 percent over a school week

Minimum Requirements For Nutrient Levels For School Breakfasts Traditional Food-Based Alternative (School Week Averages)		
Nutrient And Energy Allowances	Preschool	Grades K-12
Energy allowances (calories)	388	554
Total fat (as percentage of actual total food energy)	<sup>1</sup>	<sup>1</sup>
Total saturated fat (as a percentage of actual total food energy)	<sup>2</sup>	<sup>2</sup>
Protein (g)	5	10
Calcium (mg)	200	257
Iron (mg)	2.5	3.0
Vitamin A (RE)	113	197
Vitamin C (mg)	11	13

<sup>1</sup> Not To Exceed 30 Percent Over A School Week

<sup>2</sup> Less Than 10 Percent Over A School Week

### Appendix B. Required Grade Nutrient Standards for Enhanced Food Based Menu Planning

#### Breakfast

Calories and Nutrient Levels for School Breakfast (School Week Averages)			
	Preschool	Grades K-12	Option Grades 7-12
Energy Allowances (calories)	388	554	618
Total fat (as a percentage of actual total food energy)	<sup>1</sup>	<sup>1</sup>	<sup>1</sup>
Total saturated fat (as a percentage of actual total food energy)	<sup>2</sup>	<sup>2</sup>	<sup>2</sup>
Protein (g)	5	10	12
Calcium (mg)	200	257	300
Iron (mg)	2.5	3.0	3.4
Vitamin A (RE)	113	197	225
Vitamin C (mg)	11	13	14

<sup>1</sup> Total fat not to exceed 30 percent over a school week

<sup>2</sup> Saturated fat to be less than 10 percent over a school week

#### Lunch

Calories and Nutrient Levels for School Lunch (School Week Averages)				
	Preschool	Grades K-6	Grades 7-12	Grades K-3 Option
Energy Allowances (Calories)	517	664	825	633
Total Fat (as a percentage of actual total food energy)	<sup>1</sup>	<sup>1</sup>	<sup>1</sup>	<sup>1</sup>
Total Saturated Fat (as a percentage of actual total food energy)	<sup>2</sup>	<sup>2</sup>	<sup>2</sup>	<sup>2</sup>
Protein (g)	7	10	16	9
Calcium (mg)	267	286	400	267
Iron (mg)	3.3	3.5	4.5	3.3
Vitamin A (RE)	150	224	300	200
Vitamin C (mg)	14	15	18	15

<sup>1</sup> Total fat not to exceed 30 percent over a school week

<sup>2</sup> Saturated fat to be less than 10 percent over a school week

### Appendix C. Required Grade Nutrient Standards for Nutrient Standard and Assisted Nutrient Standard Menu Planning

#### Breakfast

Calories and Nutrient Levels for School Breakfast (School Week Averages)			
	Preschool	Grades K-12	Option Grades 7-12
Energy Allowances (calories)	388	554	618
Total fat (as a percentage of actual total food energy)	<sup>1</sup>	<sup>1</sup>	<sup>1</sup>
Total saturated fat (as a percentage of actual total food energy)	<sup>2</sup>	<sup>2</sup>	<sup>2</sup>
Protein (g)	5	10	12
Calcium (mg)	200	257	300
Iron (mg)	2.5	3.0	3.4
Vitamin A (RE)	113	197	225
Vitamin C (mg)	11	13	14

<sup>1</sup> Total fat not to exceed 30 percent over a school week.

<sup>2</sup> Saturated fat to be less than 10 percent over a school week.

#### Lunch

Calories and Nutrient Levels for School Lunch (School Week Averages)				
	Preschool	Grades K-6	Grades 7-12	Grades K-3 Option
Energy Allowances (Calories)	517	664	825	633
Total Fat (as a percentage of actual food energy)	<sup>1</sup>	<sup>1</sup>	<sup>1</sup>	<sup>1</sup>
Total Saturated Fat (as a percentage of actual food energy)	<sup>2</sup>	<sup>2</sup>	<sup>2</sup>	<sup>2</sup>
Protein (g)	7	10	16	9
Calcium (mg)	267	286	400	267
Iron (mg)	3.3	3.5	4.5	3.3
Vitamin A (RE)	150	224	300	200
Vitamin C (mg)	14	15	18	15

<sup>1</sup> Total fat not to exceed 30 percent over a school week.

<sup>2</sup> Saturated fat to be less than 10 percent over a school week.

### Appendix D. Optional Age Nutrient Standards for Nutrient Standard and Assisted Nutrient Standard Menu Planning

#### Breakfast

Minimum Calorie and Nutrient Levels for School Breakfast (School Week Averages for Age Groups)				
Nutrients and Energy Allowances	Ages 3-6	Ages 7-10	Ages 11-13	Ages 14 and older
Energy Allowances (calories)	419	500	588	625
Total Fat (as a percentage of actual total food energy)	<sup>1</sup>	<sup>1</sup>	<sup>1</sup>	<sup>1</sup>
Saturated Fat (as a percentage of actual total food energy)	<sup>2</sup>	<sup>2</sup>	<sup>2</sup>	<sup>2</sup>
RDA for Protein (g)	5.50	7.00	11.25	12.50

RDA for Calcium (mg)	200	200	300	300
RDA for Iron (mg)	2.5	2.5	3.4	3.4
RDA for Vitamin A (RE)	119	175	225	225
RDA for Vitamin C (mg)	11.00	11.25	12.50	14.40

<sup>1</sup>Total fat not to exceed 30 percent over a school week

<sup>2</sup>Saturated fat to be less than 10 percent over a school week

### Lunch

Minimum Calorie and Nutrient Levels for School Lunch (School Week Averages for Age Groups)				
Nutrients and Energy Allowances	Ages 3-6	Ages 7-10	Ages 11-13	Ages 14 and older
Energy Allowances (calories)	558	667	783	846
Total Fat (as a percentage of total food energy)				
Saturated Fat (as a percentage of total food energy)				
RDA for Protein (g)	7.3	9.3	15.0	16.7
RDA for Calcium (mg)	267	267	400	400
RDA for Iron (mg)	3.3	3.3	4.5	4.5
RDA for Vitamin A (RE)	158	233	300	300
RDA for Vitamin C (mg)	14.6	15.0	16.7	19.2

<sup>1</sup>Total fat not to exceed 30 percent over a school week

<sup>2</sup>Saturated fat to be less than 10 percent over a school week

### Appendix E. Sample Child Nutrition (CN) Label

CN	
This 3.92 oz. fully cooked breaded turkey pattie fritter provides 2 oz. equivalent meat/meat alternate and 1-1/4 servings of bread alternate for child nutrition meal pattern requirements. (Use of this Logo and statement has been authorized by the Food and Nutrition Service, USDA 05-96.)	037481  CN
CN	

### Appendix F. Guidance for Reviewing Product Formulation Statement

A. Reviewing product formulation statement for prepared products containing only meat:

Raw meat per serving x FBG yield info = ounces equivalent meat per serving.

Example:

A beef burrito that contains 2.88 ounces raw ground beef

(no more than 30% fat):

$2.88 \times .70$  (FBG yield) = 2.016 ounces equivalent meat per serving.

B. For product formulation statement for prepared products containing Alternate Protein Products (formally Vegetable Protein Products) in addition to meat:

1. The contribution alternate protein products (APP) make toward the meat/meat alternate requirement specified in Parts 210, 225, or 226 shall be determined on the basis of the preparation yield of the meat, poultry or seafood with which it is combined. When computing the preparation yield of a product containing meat, poultry or seafood APP, the SFA shall evaluate the APP as having the same yield ounce for ounce with the understanding that the APP must contain at least 18 percent protein by weight when fully hydrated or formulated. ("When hydrated or formulated" refers to a dry alternate protein product and the amount of water, fat, oil, colors, flavors or any other substances which have been added.) The weight of the APP plus the yield of the meat, poultry, or seafood based on the Food Buying Guide equals the credit of the product towards meeting the meat/meat alternate. The crediting of the combination of the APP and the yield of the meat, poultry, or seafood cannot exceed the weight of the product. [7 CFR Part 210, Appendix A, APP(1)(e)]

C. Steps in reviewing product formulation statement for prepared products containing APP:

1. Determine whether an appropriate amount of liquid is specified for full hydration:

a. Percent protein in APP as purchased = total parts hydrated product.

18% protein

Example:  $*.50$  (flour used) = 2.7

.18

\*Note: Use the information supplied by the company on the percent protein in the APP as purchased.

b. Total parts hydrated product minus 1 (one) part APP will equal parts liquid allowed for full hydration.

Example: 2.7

-1.0 (for amount of APP)

1.7 parts liquid for full hydration

2. Find the total weight of liquid for full hydration:

a. Multiply the total weight of dry APP in the product times the parts of liquid allowed for full hydration.

Example:  $.0816$  ounces  $\times 1.7 = .1387$  ounces of liquid allowed for full hydration

## Appendix G. Certified Product Formulation Statement For Meat/Meat Alternate (M/Ma) Products

(Place information on company letterhead with signature of a legally authorized representative of the company.)

Product Name: \_\_\_\_\_ Code No.: \_\_\_\_\_  
 Manufacturer: \_\_\_\_\_  
 Case/Pack/Count/Portion Size: \_\_\_\_\_  
 List Variety(ies) and Cuts of Meat Used in Product: \_\_\_\_\_  
 Total Weight (per portion) of Uncooked Product: \_\_\_\_\_  
 Weight of Raw Meat per portion (List each variety separately.): \_\_\_\_\_  
 Percent of Fat in Raw Meat (List fat in each variety separately.): \_\_\_\_\_  
 Weight/measure (as approximate) of Meat Alternate(s) (Specify MA used.): \_\_\_\_\_

Source (e.g., soy, peanut), Type (e.g., isolate, concentrate), and percent of protein in APP as purchased: \_\_\_\_\_

If MA is an APP, specify the source (e.g., soy, whey), type (e.g., flour, isolate, concentrate), and percent in APP as purchased: \_\_\_\_\_

Weight of Dry APP in One Portion of Product: \_\_\_\_\_

Weight of Water (Liquid) to Fully Hydrate Dry APP in One Portion of Product: \_\_\_\_\_

Percent protein contained in the fully hydrated or formulated APP: \_\_\_\_\_

Total Weight Per Portion of Product As Purchased: \_\_\_\_\_

I certify that the above information is true and correct and that a \_\_\_\_\_ ounce serving of the above product (ready for serving) contains \_\_\_\_\_ ounces of cooked lean meat/meat alternate when prepared according to directions.

I further certify that any APP used in this product conforms to Food and Nutrition Service regulations (7CFR Parts 210, 220, 225 or 226, Appendix A).

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
DATE

This information is needed if a creditable Alternate Protein Product (APP) is used in the product and counted toward meeting the meat/meat alternate requirement.

## Appendix H. Traditional School Lunch Meal Patterns

Traditional Food-Based Menu Planning Approach -Meal Pattern For Lunches					
Minimum Quantities					Recommended Quantities
Food Components And Food Items	Group I Ages 1-2 Preschool	Group II Ages 3-4 Preschool	Group III Ages 5-8 Grades K-3	Group IV Ages 9 And Older Grades 4-12	Group V Ages 12 And Older Grades 7-12
Milk (as a beverage)	6 fluid ounces	6 fluid ounces	8 fluid ounces	8 fluid ounces	8 fluid ounces
Meat or Meat Alternate (quantity of the edible portion as served): Lean meat, poultry, or fish Alternate Protein Products <sup>1</sup> Cheese Large egg Cooked dry beans or peas Peanut butter or other nut or seed butters Yogurt, plain or flavored, unsweetened or sweetened The following may be used to meet no more than 50 % of the requirement and must be used in combination with any of the above: Peanuts, soynuts, tree nuts, or seeds, as listed in program guidance, or an equivalent quantity of any combination of the above meat/meat alternate (1 ounce of nuts/seeds = 1 ounce of cooked lean meat, poultry, or fish)	1 ounce 1 ounce 1 ounce ½ ¼ cup 2 tablespoons 4 ounces or ½ cup      ½ ounce = 50%	1 ½ ounces 1 ½ ounces 1 ½ ounces ¾ ¾ cup 3 tablespoons 6 ounces or ¾ cup      ¾ ounce = 50%	1 ½ ounces 1 ½ ounces 1 ½ ounces ¾ ¾ cup 3 tablespoons 6 ounces or ¾ cup      ¾ ounce = 50%	2 ounces 2 ounces 2 ounces 1 ½ cup 4 t tablespoons 8 ounces or 1 cup      1 ounce = 50%	3 ounces 3 ounces 3 ounces 1 ½ ¾ cup 6 tablespoons 12 ounces or 1 ½ cups      1 ½ ounce = 50%
Vegetable or Fruit: 2 or more servings of vegetables, fruits or both	½ cup	½ cup	½ cup	¾ cup	¾ cup
Grains/Breads: (servings per week): Must be enriched or whole grain. A serving is a slice of bread or an equivalent serving of biscuits, rolls, etc., or ½ cup of cooked rice, macaroni, noodles, other pasta products or cereal grains	5 servings per week <sup>2</sup> – minimum of ½ serving per day	8 servings per week <sup>2</sup> – minimum of 1 serving per day	8 servings per week <sup>2</sup> – minimum of 1 serving per day	8 servings per week <sup>2</sup> – minimum of 1 serving per day	10 servings per week <sup>2</sup> – minimum of 1 serving per day

<sup>1</sup> Must meet the requirements in appendix A of CFR 210.

<sup>2</sup> For the purposes of this table, a week equals five days.

**Appendix I. Traditional School Breakfast Meal Pattern**

<b>Traditional Food-Based Menu Planning Approach -Meal Pattern For Breakfasts</b>			
<b>Food Components and Food Items</b>	<b>Ages 1-2</b>	<b>Ages 3, 4, and 5</b>	<b>Grades K-12</b>
Milk (fluid) (as a beverage, on cereal or both)	4 fluid ounces	6 fluid ounces	8 fluid ounces
JUICE/FRUIT/VEGETABLE: Fruit and/or vegetable; or full-strength fruit juice or vegetable juice	¼ cup	½ cup	½ cup
Select One Serving From Each Of The Following Components, Two From One Component, Or An Equivalent Combination: <b>GRAINS/BREADS:</b> Whole-grain or enriched bread Whole-grain or enriched biscuit, roll, muffin, etc. Whole-grain, enriched or fortified cereal <b>MEAT OR MEAT ALTERNATES:</b> Meat/poultry or fish Alternate protein products <sup>1</sup> Cheese Large egg Cooked dry beans or peas Peanut butter or other nut or seed butters Nuts and/or seeds (as listed in program guidance) <sup>2</sup> Yogurt, plain or flavored, unsweetened or sweetened	½ slice ½ serving ¼ cup or 1/3 ounce  ½ ounce ½ ounce ½ ounce ½ 2 tablespoons 1 tablespoon ½ ounce 2 ounces or ¼ cup	½ slice ½ serving 1/3 cup or ½ ounce  ½ ounce ½ ounce ½ ounce ½ 2 tablespoons 1 tablespoon ½ ounce 2 ounces or ¼ cup	1 slice 1 serving ¾ cup or 1 ounce  1 ounce 1 ounce 1 ounce ½ 4 tablespoons 2 tablespoons 1 ounce 4 ounces or ½ cup

<sup>1</sup> Must meet the requirements in appendix A of CFR 220.

<sup>2</sup> No more than 1 ounce of nuts and/or seeds may be served in any one breakfast.

**Appendix J. Grains/Breads for Food Based Menu Planning in the Child Nutrition Programs <sup>1</sup>**

<b>Grains/Breads <sup>1</sup></b>	<b>Wt./1 Serving</b>	<b>Wt./ ¼ Serving</b>	<b>Wt./ ½ Serving</b>	<b>Wt./ ¼ Serving</b>
<b>Group A</b>	<b>20 Gm Or 0.7 Oz</b>	<b>15 Gm Or 0.5 Oz</b>	<b>10 Gm Or 0.4 Oz</b>	<b>5 Gm Or 0.2 Oz</b>
Bread type coating Bread sticks (hard) Chow mein noodles Crackers (saltines and snack) Croutons Pretzels (hard) Stuffing (dry)[Note: Weights apply to breads in stuffing.]				
<b>GROUP B</b>	<b>25 gm or 0.9 oz</b>	<b>19 gm or 0.7 oz</b>	<b>13 gm or 0.5 oz</b>	<b>6 gm or 0.2 oz</b>
Batter type coating Bagels Biscuits Breads (white, wheat, whole wheat, French, Italian) Buns (hamburger, hotdog) Crackers (graham—all shapes, animal) Egg roll skins English muffins Pita bread (white, wheat, whole wheat) Pizza crust Pretzels (soft) Rolls (white, wheat, whole wheat, potato) Taco shells Tortillas (wheat, corn) Tortilla chips (wheat, corn)				
<b>GROUP C</b>	<b>31 gm or 1.1 oz</b>	<b>23 gm or 0.8 oz</b>	<b>16 gm or 0.6 oz</b>	<b>8 gm or 0.3 oz</b>
Cookies <sup>2</sup> (plain) Corn muffins Cornbread Croissants Pancakes <b>Pie crust (dessert pies<sup>2</sup>, fruit turnovers<sup>3</sup>, and meat/meat alternate pies)</b> Waffles				
<b>GROUP D</b>	<b>50 gm or 1.8 oz</b>	<b>38 gm or 1.3 oz</b>	<b>25 gm or 0.9 oz</b>	<b>13 gm or 0.5 oz</b>
Doughnuts <sup>2</sup> (cake and yeast raised, unfrosted) Granola bars <sup>3</sup> (plain) Muffins (all, except corn) Sweet rolls <sup>2</sup> (unfrosted) Toaster pastry <sup>3</sup> (unfrosted)				

Grains/Breads	Wt./ 1 Serving	Wt./ ¾ Serving	Wt./ ½ Serving	Wt./ ¼ Serving
Group E	63 Gm Or 2.2 Oz	47 Gm Or 1.7 Oz	31 Gm Or 1.1 Oz	16 Gm Or 0.6 Oz
Cookies <sup>2</sup> (with nuts, raisins, chocolate pieces, and/or fruit purees) Doughnuts <sup>3</sup> (cake and yeast raised, frosted or glazed) French toast Grain fruit bars <sup>3</sup> Granola bars <sup>3</sup> (with nuts, raisins, chocolate pieces, and/or fruit) Sweet rolls <sup>3</sup> (frosted) Toaster pastry <sup>3</sup> (frosted)				
GROUP F	75 gm or 2.7 oz	56 gm or 2.0 oz	38 gm or 1.3 oz	19 gm or 0.7 oz
Cake <sup>2</sup> (plain, unfrosted) Coffee cake <sup>3</sup>				
GROUP G	115 gm or 4 oz	86 gm or 3 oz	58 gm or 2 oz	29 gm or 1 oz
Brownies <sup>2</sup> (plain) Cake <sup>2</sup> (all varieties, frosted)				
GROUP H	½ cup cooked or 25 gm (0.9 oz) dry			
Barley Bulgur or cracked wheat Breakfast cereals * <sup>4</sup> (cooked) Macaroni (all shapes) Noodles, (all varieties) Pasta (all shapes) Ravioli (noodle only) Rice (enriched white or brown)				
GROUP I	¾ cup or 1 oz, whichever is less			
Cereal (cold, dry) <sup>4</sup>				
* Serving size for lunch only.				

<sup>1</sup> Some of the following foods or their accompaniments may contain more sugar, salt, and/or fat than others. The extent of each should be a consideration when deciding how often to serve them.

<sup>2</sup> These items are allowed only for desserts under the enhanced food-based menu planning alternative specified in §210.10 and supplements (snacks) served under the NSLP, SFSP, and CACFP.

<sup>3</sup> These items are allowed for desserts under the enhanced food-based menu planning alternative specified in §210.10 and supplements (snacks) served under the NSLP, SFSP, and for breakfasts served under the SBP, SFSP and CACFP.

<sup>4</sup> Refer to program regulations for the appropriate serving size for supplements served to children ages 1 through 5 in the NSLP, for breakfasts served under the SBP, and for meals served to children ages 1 through 5 and adult participants in the CACFP. Breakfast cereals are traditionally served as a breakfast menu item but may be served in meals other than breakfast.

### Appendix K. Enhanced Food-based Menu Plan for Lunch

Enhanced Food-Based Menu Planning Approach-Meal Pattern For Lunches					
Food Components And Food Items	Minimum Requirements				Option For
	Ages 1-2	Preschool	Grades K-6	Grades 7-12	Grades K-3
Milk (as a beverage)	6 fluid ounces	6 fluid ounces	8 fluid ounces	8 fluid ounces	8 fluid ounces
Meat or Meat Alternate (quantity of the edible portion as served): Lean meat, poultry, or fish Alternate Protein Products <sup>1</sup> Cheese Large egg Cooked dry beans or peas Peanut butter or other nut or seed butters Yogurt, plain or flavored, unsweetened or sweetened The following may be used to meet no more than 50 % of the requirement and must be used in combination with any of the above: Peanuts, soy nuts, tree nuts, or seeds, as listed in program guidance, or an equivalent quantity of any combination of the above meat/meat alternate (1 ounce of nuts/seeds = 1 ounce of cooked lean meat, poultry, or fish)	1 ounce 1 ounce 1 ounce ½ ¼ cup 2 tablespoons 4 ounces or ½ cup      ½ ounce = 50%	1 ½ ounces 1 ½ ounces 1 ½ ounces ¾ ¾ cup 3 tablespoons 6 ounces or ¾ cup      ¾ ounce = 50%	2 ounces 2 ounces 2 ounces 1 ½ cup 4 tablespoons 8 ounces or 1 cup      1 ounce = 50%	2 ounces 2 ounces 2 ounces 1 ½ cup 4 tablespoons 8 ounces or 1 cup      1 ounce = 50%	1 ½ ounces 1 ½ ounces 1 ½ ounces ¾ ¾ cup 3 tablespoons 6 ounces or ¾ cup      ¾ ounce = 50%
Vegetable or Fruit: 2 or more servings of vegetables, fruits or both	½ cup	½ cup	¾ cup plus an extra ½ cup over a week <sup>2</sup>	1 cup	¾ cup



Grains/Breads: (servings per week): Must be enriched or whole grain. A serving is a slice of bread or an equivalent serving of biscuits, rolls, etc., or ½ cup of cooked rice, macaroni, noodles, other pasta products or cereal grains	5 servings per week <sup>2</sup> – minimum of ½ serving per day	8 servings per week <sup>2</sup> – minimum of 1 serving per day	12 servings per week <sup>2</sup> – minimum of 1 serving per day <sup>3</sup>	15 servings per week <sup>2</sup> – minimum of 1 serving per day <sup>3</sup>	10 servings per week <sup>2</sup> – minimum of 1 serving per day <sup>3</sup>
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<sup>1</sup> Must meet the requirements in appendix A of CFR 210.

<sup>2</sup> For the purposes of this table, a week equals five days.

<sup>3</sup> Up to one grains/breads serving per day may be a dessert.

### Appendix L. Enhanced Food-based Menu Plan for Breakfast

Enhanced Food-Based Menu Planning Approach-Meal Pattern For Breakfasts				
Food Components And Food Items	Required For			
	Ages 1-2	Preschool	Grades K-12	Option For Grades 7-12
Milk (fluid) (as a beverage, on cereal or both)	4 fluid ounces	6 fluid ounces	8 fluid ounces	8 fluid ounces
Juice/Fruit/Vegetable: Fruit and/or vegetable; or full-strength fruit juice or vegetable juice	¼ cup	½ cup	½ cup	½ cup
Select one serving from each of the following components, two from one component or an equivalent combination: GRAINS/BREADS: Whole-grain or enriched bread Whole-grain or enriched biscuit, roll, muffin, etc. Whole-grain, enriched or fortified cereal MEAT OR MEAT ALTERNATES: Meat/poultry or fish Alternate protein products <sup>1</sup> Cheese Large egg Cooked dry beans or peas Peanut butter or other nut or seed butters Nuts and/or seeds (as listed in program guidance) <sup>2</sup> Yogurt, plain or flavored, unsweetened or sweetened	½ slice ½ serving ¼ cup or 1/3 ounce ½ ounce ½ ounce ½ ounce 2 tablespoons 1 tablespoon ½ ounce 2 ounces or ¼ cup	½ slice ½ serving 1/3 cup or ½ ounce ½ ounce ½ ounce ½ ounce 2 tablespoons 1 tablespoon ½ ounce 2 ounces or ¼ cup	1 slice 1 serving ¾ cup or 1 ounce 1 ounce 1 ounce 1 ounce 4 tablespoons 2 tablespoons 1 ounce 4 ounces or ½ cup	1 slice 1 serving ¾ cup or 1 ounce plus an additional serving of one of the Grains/Breads above. 1 ounce 1 ounce 1 ounce ½ 4 tablespoons 2 tablespoons 1 ounce 4 ounces or ½ cup

<sup>1</sup> Must meet the requirements in appendix A of CFR 220.

<sup>2</sup> No more than 1 ounce of nuts and/or seeds may be served in any one breakfast

### Appendix M. Infant Breakfast Pattern

	0 - 3 Months	4 - 7 Months	8 - 11 Months
Iron Fortified Formula <sup>1</sup> Or Breast Milk <sup>2 3</sup>	4 - 6 Fluid Ounces	4 - 8 Fluid Ounces	6 - 8 Fluid Ounces And
Iron Fortified Dry Infant Cereal <sup>1</sup>		0 - 3 Tablespoons (Optional)	2 - 4 Tablespoons And
Fruit And/Or Vegetable			1 - 4 Tablespoons

### Infant Lunch Pattern

	0 - 3 Months	4 - 7 Months	8 - 11 Months
Iron Fortified Formula <sup>1</sup> Or Breast Milk <sup>2 3</sup>	4 - 6 Fluid Ounces	4 - 8 Fluid Ounces	6 - 8 Fluid Ounces And
Iron Fortified Dry Infant Cereal <sup>1</sup>		0 - 3 Tablespoons (Optional)	2 - 4 Tablespoons And/Or 1 - 4 Tablespoons Meat/Alternate* And
Fruit And/Or Vegetable		0 - 3 Tablespoons (Optional)	1 - 4 Tablespoons

<sup>1</sup>Infant formula and dry infant cereal shall be iron-fortified.

<sup>2</sup>It is recommended that breast milk be served in place of formula for infants from birth through 11 months.

<sup>3</sup>For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.

\*One to four tablespoons meat, fish, poultry, egg yolk, cooked dry beans, or peas or 1/2 - 2 ounces cheese or 1 - 4 tablespoons cottage cheese, cheese food, or cheese spread

**Appendix N. Prototype Agreement for Donation of Leftover Food Items-Sample Product Formulation Statement for Prepared Grains/Breads**

(Place information on company letterhead with signature of a legally authorized representative of the company.)

Product name: \_\_\_\_\_ Code No.: \_\_\_\_\_

Case weight and pack/count:

Volume and weight of one serving of product:

Weight of total product per batch:  
Before Baking: \_\_\_\_\_ After Baking: \_\_\_\_\_

List the enriched and/or whole grain meal(s), flour(s), bran and/or germ in the product:

Total weight of enriched an/or whole grain meal(s), flour(s), bran and/or germ per batch: \_\_\_\_\_

Number of portions/servings per batch:

Weight (grams) of enriched and/or whole grain meal(s) and /or flour(s), bran and /or germ in one serving of the product:

I certify that the above information is true and correct and that one \_\_\_\_\_ serving (specify serving volume/weight) of the above product (ready to eat) contains \_\_\_\_\_ servings of Grains/Breads\* for the Child Nutrition Programs.

\_\_\_\_\_  
SIGNATURE TITLE

\_\_\_\_\_  
PRINTED NAME DATE

(\*Child Nutrition Programs require 14.75 grams of whole grain or enriched flour or meal, bran or germ, or an equivalent amount of cereal as provided in FNS Instruction 783-1, Rev. 2, to equal 1 serving Grains/Breads. Grains/Breads may be credited in 1/4 serving increments.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2153 (December 2001).

**Chapter 9. Afterschool Care Program**

**§901. General**

A. Sections 107 and 108 of Public Law 105-336, the Child Reauthorization Act of 1998, enhance nutrition benefits for all children, with a special emphasis on older children, by authorizing reimbursement for snacks served to children through age 18, (and to individuals, regardless of age, who are determined by the State Agency to be mentally or physically disabled), who participate in programs organized to provide afterschool care. The intent of these provisions is to assist schools and public and private nonprofit organizations to operate organized programs of care, which include educational or enrichment activities known to help reduce or prevent children's involvement in juvenile crime or other high-risk behavior.

B. The Afterschool Care Program must be administered by a school food authority (SFA) participating in the National School Lunch Program (NSLP) or by a public or private nonprofit organization participating through the Louisiana Register Vol. 27, No. 12 December 20, 2001

Child and Adult Care Food Program (CACFP). Eligible organizations must enter into an agreement with the State Agency, thereby, assuming full responsibility for meeting all program requirements mandated by Federal and State laws

C. The SFA may make arrangements with another organization to perform the day-to-day operations of the program, but administrative and financial management shall be the sole responsibility of the SFA: for example, the PTA could operate the program under an arrangement with the SFA, but administrative and fiscal responsibilities rest with the SFA.

D. Schools wishing to participate under this provision must provide sufficient information to enable the State Agency to determine whether or not the program is eligible and, if so, whether or not it qualifies for free reimbursement for all meals based on area eligibility. Upon approval, the State Agency must amend its agreement with the SFA to provide for the requirements of an afterschool snack service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2160 (December 2001).

**§903. Eligible Programs**

A. Afterschool Care Programs must meet the following criteria.

1. The program must be administered by a SFA participating in the NSLP. If the school is not part of an SFA participating in the NSLP, the school may be eligible to participate through the CACFP.
2. The program must provide care in afterschool settings.
3. The program must include education or enrichment activities in organized, structured and supervised environments.
4. The program must be open to all and not limit membership for reasons other than space or security consideration, or, where applicable, licensing requirements. Extracurricular activities, such as the school choir, debate team, drama society, etc., can qualify to participate under this provision only if their basic purpose is to provide afterschool care as defined above. No organized athletic programs engaged in interscholastic sports can be approved as afterschool care programs under this provision.

B. An exception to the "open to all" criterion may apply to afterschool care programs that are designed to accommodate special needs or that have other limiting factors. They may include, but are not limited to, programs targeted to children who have learning disabilities or programs for children who are academically gifted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2160 (December 2001).

**§905. Eligible Sites**

A. Traditional school settings and nontraditional school settings, such as a church or community center, may be used for the Afterschool Care Program, provided the program is operated by an SFA which is participating in the NSLP. If the school is not part of an SFA participating in the NSLP, the school may be eligible to participate through CACFP.

B. Federal law does not require eligible afterschool programs to be licensed in order to participate in the Afterschool Care Program unless there is a State or local requirement for licensing. If there is no local or State requirement for licensing, then the site must meet State or local health and safety standards.

C. Residential child care institutions (RCCIs) that participate in the NSLP may be eligible to participate, provided the RCCI operates an afterschool care program with enrichment or educational activities as described in Eligible Programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2160 (December 2001).

### **§907. Reimbursement**

A. Schools may claim reimbursement for one snack, per child, per day. Children are eligible to participate through age 18. In cases in which a student's nineteenth birthday occurs during the school year, reimbursement may be claimed for snacks served to that student through the remainder of the school year. Reimbursement may also be claimed for individuals, regardless of age, who are determined by the State Agency to be mentally or physically disabled.

B. Schools are not eligible to receive reimbursement under this provision for snacks served on weekends or holidays, including vacation periods. RCCIs may claim snacks served on weekends and holidays only if conducted after an educational activity which is an integral part of the curriculum or an actual extension of the local education system.

#### **1. Area Eligible Sites**

a. Sites located in areas served by a school in which at least 50 percent of the enrolled children are certified eligible for free or reduced price meals are eligible to receive snack reimbursement at the free rate for all children eligible for snacks, regardless of each individual child's eligibility status for free or reduced price lunches and breakfasts. Area eligibility for the site will follow the Summer Food Service Program's (SFSP) policies for area eligibility using school data. Schools determined to be area eligible for the SFSP would also be area eligible as afterschool care facilities.

b. School sites where at least 50 percent of the students enrolled are certified eligible for free or reduced price meals are considered area eligible.

#### **2. Non-Area Eligible**

a. Sites not in areas served by a school in which at least 50 percent of the enrolled children are certified eligible for free or reduced price meals must claim reimbursement by category (free, reduced price and paid). Eligibility for snacks served free or at a reduced price must be documented.

b. School sites where fewer than 50 percent of the students enrolled are certified eligible for free or reduced price meals are considered non-area eligible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2161 (December 2001).

### **§909. Times of Operation**

A. The Afterschool Care Program may operate on only those days when school is in session. This schedule may include snacks served in afterschool care programs operated for children attending summer school; but does not include weekends, holidays, or school vacations. Under no circumstances may snacks be reimbursed in programs operated before or during the child's school day. A child's eligibility is based on when his/her individual scheduled school day ends, not on whether the school continues in session for other children.

B. RCCIs may claim weekend and holidays only if conducted after an education activity that is determined to be an integral part of the curriculum or an actual extension of the local education system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2161 (December 2001).

### **§911. Content of Meals**

A. Snacks served must meet the meal pattern requirements set forth in 7 CFR Sections 210.10(h) and (j). Portions for children ages 13 through 18 shall be no less than the portions stipulated for children ages 6 through 12. It is recommended that schools offer larger portions for older children (ages 13-18) based on their greater food energy requirements. (See Appendix A entitled "Meal Pattern Requirements for Afterschool Care Programs.")

B. Participants must be given two of the four components specified in the snack meal pattern in order to claim a meal for reimbursement. Unlike NSLP and SBP, there is no Offer versus Serve option in the Afterschool Care Program.

C. The State requires that at least a five-day menu cycle for snacks be developed to meet the snack pattern requirements. USDA recommends that cookies, granola bars, and similar foods be served in a snack no more than twice a week. Juice may not be served as a component when milk is the only other component being offered. All grains/bread products must be made of whole grain or enriched flour or meal and must meet the weight requirements specified in Chapter 7: Meal Planning and Service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2161 (December 2001).

### **§913. Snack Pricing Procedures**

A. The State Agency highly recommends that the SFA establish and implement a payment policy for the snack program. Undercollections for the sale of snacks will necessitate an audit exception; undercollections must be recovered from other sources and deposited in the school food service account.

#### **1. Students**

a. A student not qualifying for the free rate shall pay the snack price established by the SFA. The price charged for a reduced price snack shall be less than the price charged to full price students and shall be 15 cents or lower.

b. Different snack charges may be established for elementary and secondary grade levels; however, the charges for reduced priced snacks may not exceed 15 cents.

2. SFA Employees

a. The minimum charge shall be the Federal free snack reimbursement rate.

3. Adults/Visitors

a. The minimum charge shall be the Federal free snack reimbursement rate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2161 (December 2001).

**§915. Record Keeping**

A. At a minimum, SFAs participating under this provision must maintain the following records for the time periods required in 7 CFR section 210.23(c).

1. an approved collection procedure;
2. a roster or sign-in sheet showing daily attendance;
3. accurate daily counts by category of snacks served;
4. if all snacks are claimed free, documentation that at least 50 percent of the students enrolled at the school site are certified eligible for free or reduced price or documentation that the site is located in an area served by a school in which 50 percent of the enrolled students are certified eligible for free or reduced price meals;

5. for all other eligible sites, documentation of free and reduced price eligibility for all children for whom free and reduced priced snacks are claimed;

6. documentation of compliance with snack pattern requirements recorded on the Food Production Record;

7. documentation of the educational or enrichment activity maintained on file in the SFS central office;

8. if qualifying for the program through attendance areas, attendance areas maintained on file in the SFS central office;

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2162 (December 2001).

**§917. Required Monitoring by the School Food Authority**

A. The SFA must monitor the snack program at least twice during the school year with the first review occurring within the first four weeks of its operation. A sample monitoring form is provided in Appendix B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2162 (December 2001).

**§919. Appendice**

A. Meal Pattern Requirements for Afterschool Care Programs

**Appendix A. Meal Pattern Requirements for Afterschool Care Programs**

Components (Serve Two Food Items Selected From Any Two Of These Four Components.)	Ages 1 And 2	Ages 3- 5	Ages 6 - 12
Milk Milk, fluid	½ cup	½ cup	1 cup
Vegetables and Fruits Vegetable(s) and/or fruit(s) or Full-strength fruit or vegetable juice or An equivalent quantity of any combination of the above (Juice may not be served when milk is the only other component.)	½ cup	½ cup	¾ cup
Bread and Bread Alternates Bread or Cornbread, biscuits, rolls, muffins, etc. or Cold dry cereal or Cooked cereal or Cooked pasta or noodle products or Cooked cereal grains or An equivalent quantity of any combination of the above bread and bread alternates	½ slice ½ serving ¼ cup or 1/3 oz ¼ cup ¼ cup ¼ cup	½ slice ½ serving 1/3 cup or ½ oz ¼ cup ¼ cup ¼ cup	1 slice 1 serving ¾ cup or 1 oz. ½ cup ½ cup ½ cup
Meat and Meat Alternates Lean meat or poultry or fish or Alternate protein products or Cheese or Eggs or Cooked dry beans or peas or Peanut butter or soynut butter or other nut or seed butters or Peanuts or soynuts or tree nuts or seeds or Yogurt, plain or sweetened and flavored or An equivalent quantity of any combination of the above meat and meat alternates	½ oz. ½ oz. ½ oz. ½ egg 1/8 cup 1 tbsp. ½ oz.  2 oz. or ¼ cup	½ oz. ½ oz. ½ oz. ½ egg 1/8 cup 1 tbsp. ½ oz.  2 oz. or 1/4 cup	1 oz. 1 oz. 1 oz. ½ egg ¼ cup 2 tbsp. 1 oz.  4 oz. or 1/2 cup

\* Bread and bread alternates must be whole grain or enriched except cereal, which must be whole grain, enriched or fortified.

\*\*Cold dry cereal is measured either by volume (cup) or weight (ounces), whichever is less.

CAUTION: Children under five years of age are at the highest risk of choking. USDA recommends that any nuts and/or seeds be served to them in a prepared food and be ground or finely chopped.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2162 (December 2001).

## **Chapter 11. Personnel**

### **§1101 Child Nutrition Program Director/Supervisor**

A. A Child Nutrition Program (CNP) Director or Supervisor is that member of the administrative staff of the school system who, under the general direction of the superintendent of schools or school business administrator, works with others in the developing, administering, and supervising of the school food service programs within the school system. The significance of good nutritional habits and food in relation to health and total educational performance makes it imperative that CNPs are based upon professional concepts. Therefore, the full-time services of a full-time certified director or supervisor are required for all school systems. Single private schools/charter schools and residential child care institutions are exempt from this requirement.

B. It is recommended that systems with more than 15 school programs employ an assistant director and/or additional supervisors to ensure the efficiency and effectiveness of CNP programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2163 (December 2001).

### **§1103. Certification Requirements for Child Nutrition Program Directors/ Supervisors**

A. Requirements for certification for CNP Director and Supervisor are set forth in Bulletin 746: Louisiana Standards for State Certification of School Personnel.

B. The applicant must have a master's degree in Home Economics (Family and Consumer Science), Institutional Management, Nutrition, Dietetics, Business Administration, Food Technology, or Public Health Nutrition from a regionally accredited institution of higher education.

C. There are two areas of specialty for certification as a CNP director/supervisor:

#### **1. Food Service**

a. A minimum of three years of successful experience in Home Economics (Family and Consumer Science), or quantity food service management

b. A minimum of 21 semester hours, of which six semester hours must be in human nutrition and three semester hours in quantity food preparation. The remaining 12 semester hours must be presented in course credit in at least four of the following subject matter areas: Quantity Food Purchasing, Organization and Management, Quantity Food Service Equipment and Layout, Accounting, Statistics, Microbiology, Food Science or Technology.

#### **2. Nutrition**

a. A minimum of three years of successful experience in teaching, nutrition education, public health nutrition, clinical or administrative dietetics, cooperative extension, or food service management

b. Graduate and undergraduate semester hours, in the following courses:

i. Nutrition: 18 semester hours (at least six hours in human nutrition). The remaining 12 semester hours may include nutrition, physiology, biochemistry, microbiology or bacteriology

ii. Foods: nine semester hours  
iii. Statistics, Research Methodology or Evaluative Techniques: Three semester hours  
iv. Other: 12 semester hours (minimum) in course credit in at least two of the following subject matter areas: Quantity Food Preparation or Quantity Cookery, Child or Adolescent Psychology Communication and Speech, Educational Materials and/or Methods, Personnel or Institutional Management

D. Newly employed CNP directors and supervisors are required to audit Phase III of the prescribed training course for School Food Service Manager Certification during the first year of employment. (Refer to "Description of LA School Food Service Training Program" in this Chapter.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2163 (December 2001).

### **§1105. Provisional Child Nutrition Program Director/Supervisor**

A. A special provisional certificate, which went into effect January 1, 1977, may be issued to an individual employed as acting CNP director or supervisor. This certificate will be valid for one year and renewable each year thereafter upon presentation of six semester hours of applicable credit toward completion of all requirements for permanent certification as a CNP director/supervisor.

B. Special provisional certificates shall be issued only to persons with a baccalaureate or master's degree in Family and Consumer Science (Home Economics), Institutional Management, Nutrition, Dietetics, Business Administration, Food Technology, Public Health Nutrition, or other health related fields from a regionally accredited institution of higher education. This certificate does not authorize the holder to perform any services in the school system of Louisiana other than to act as a CNP director/supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2163 (December 2001).

### **§1107. Duties and Responsibilities of Directors/Supervisors**

A. The responsibilities of the director/ supervisor include the following duties:

1. implement goals, objectives and governing regulations of the CNP;

2. develop, initiate, and interpret a nutrition education program and coordinate nutrition and educational opportunities for school food service employees, students, teaching staff, parents, and community;

3. utilize the school food service program as an application of sound nutrition and as a means for improving the health and nutrition of the students;

4. establish and implement uniform personnel policies for school food service employees, basic job descriptions, standards for performance, evaluation tools, salary schedule, and employee benefits;

5. assist in developing or administering accurate accounting procedures and records for adequate control and management of income, labor, food, supplies, and other costs;

6. plan in-service training programs, personnel conferences and regular staff meetings;

7. establish high standards for food preparation and service ;

8. work with school administrators to plan meal schedules that meet the requirements and facilities of each school;

9. direct and/or supervise the planning of menus to comply with meal requirements and student acceptance;

10. make available standardized recipes and require portion control to be used in preparation and serving of food;

11. track current food service trends to improve and upgrade CNP;

12. cooperate in planning food service facilities including layouts;

13. assist in establishing and maintaining records necessary for adequate control and maintenance of equipment and supplies;

14. develop a plan for the appropriate care and maintenance of equipment and supplies as well as the proper cleaning of the food service area;

15. train personnel in proper use and care of equipment and supplies;

16. be knowledgeable of all local and State health laws and regulations;

17. enforce State and local laws relative to labor, sanitation, safety and fire prevention;

18. interpret goals and objectives of the CNPs through committee work, speeches, newspaper, radio, and television;

19. establish good rapport with students, school food service employees, teaching staff, school administrators, civic groups, parents, and general public;

20. develop or assist in the development of printed materials and audio-visual aids including general material for public information as well as manuals and instructional tools for school food service personnel;

21. use specifications for purchase of food, supplies and equipment;

22. purchase food products on the basis of standards, grades, quality and cost; and

23. purchase equipment on the basis of design, material, construction and cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2163 (December 2001).

#### **§1109. Classifications of School Food Service Personnel**

A. Three general classifications of school food service personnel are as follows:

1. adults, who may be employed full-time or part-time;

2. students, who are part-time workers

3. adult volunteers.

B. In order to have a uniform classification throughout the state for all full-time and part-time school food service employees, according to the type of work performed, the following specific classifications shall be used.

1. Manager. The manager shall work under the direction of the director and with the site administrator. There shall be employed a paid, certified manager responsible for each school food service program site(s) listed on the appropriate State forms.

2. Food Production Manager/Assistant Manager. The Food Production/Assistant Manager shall work under the direction of the manager in sites/situations that the CNP director designates at his/her discretion.

3. Clerk. The Clerk shall work under the direction of the manager, shall assist in compiling and maintaining daily participation records, and shall serve as cashier.

4. Technician. The Technician shall work under the direction of the manager; performs food preparation tasks.

5. Student Workers. If necessary, student workers may be used during peak periods of operation on a controlled and trained basis with strict supervision of the manager. They shall be calculated as a part of the total labor hours and recorded on the labor budget if they receive any wages from school food service funds. All policies and regulations set forth in labor laws relating to women and children must be observed when employing students. Students receiving free or reduced price meals shall not be required to work, but may volunteer. Student workers shall not be allowed to collect monies/tickets because of the confidentiality of individual eligibility status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2164 (December 2001).

#### **§1111. Guidelines for Site-Based School Food Service Personnel**

A. Efficient operation on a limited school food service budget demands the assignment of each job to the most qualified personnel available. Guidelines for job classifications, qualifications, and responsibilities of site-based school food service personnel are outlined below.

##### **B. Manager**

##### **1. Professional Growth**

a. encourage active membership in National, State and local School Food Service Association;

b. stay abreast of new trends occurring in the SFS through reading professional publications, attending workshops and conventions.

##### **2. Duties**

a. implement the philosophy, policies and regulations of the CNPs;

b. select, requisition, and maintain inventory of USDA commodities and purchased foods and supplies;

c. direct the adjustment of standardized recipes to determine amounts of food to be prepared;

d. direct and train personnel including student help and volunteer workers;

e. prepare work schedules, written instructions, and procedures for food preparation, cleaning and operation of equipment;

f. plan and/or assist in planning menus and developing standardized recipes;

g. supervise food preparation and service;

h. maintain equipment and facilities;

i. maintain adequate records and prepare reports on all phases of school food service programs;

j. maintain high standards of health, sanitation and safety;

k. cooperate with school officials and parents in working with nutrition programs in schools;

l. supervise receiving and storage of all food and supplies;  
m. direct monthly in-service training meetings for employees.

3. Education

a. A minimum of a high school diploma or General Equivalency Diploma (GED) certificate

b. Successful completion of the State's Manager Certification Requirements

4. Experience

a. a minimum of one year of successful school food service

5. Desirable Characteristics

a. able to plan, organize, direct, control and evaluate all phases of the SFS programs

b. cooperative, tactful, patient, impartial, punctual, motivated, knowledgeable, pleasant; the ability to communicate effectively and work well with others, accept constructive criticism

c. neat and well groomed appearance

d. knowledgeable of basic food preparation principles

e. skilled in quantity food preparation and service techniques, operation of various food service equipment

f. skilled in the use of basic arithmetic functions

C. Food Production/Assistant Manager

1. Professional growth

a. same as the manager

2. Duties

a. assume, in absence of manager, responsibilities and duties of the manager

b. other duties to be delegated by manager as the program dictates

3. Education

a. same as the manager

4. Experience

a. same as the manager

5. Desirable Characteristics

a. same as the manager

D. Clerk

1. Professional Growth

a. same as the manager

2. Duties

a. implement SFA meal collection procedures

b. prepare daily records of meals and income

c. prepare daily deposits and submit to designated

authority

d. perform duties as required by manager and supervisor/director

3. Education

a. High School diploma or GED certificate

4. Desirable Characteristics

a. Able to work harmoniously with pupils, staff, parents, and the public

b. Legible writing

c. Neat and well groomed appearance

d. Skilled in handling routine and repetitious tasks and in the use of basic arithmetic functions

E. Food Service Technician

1. Professional growth

a. Same as the manager

2. Duties

a. Understand and use standardized recipes  
b. Complete food preparation, service and cleaning duties

c. Use proper portion control techniques

d. Maintain equipment and facilities

e. Maintain adequate records

f. Maintain high standards of health, sanitation and safety

g. Cooperate with school officials and parents

h. Other duties to be delegated by manager as the program dictates

3. Education

a. High School diploma or GED certificate (preferred)

b. Sufficient ability to follow written instructions, interpret recipes and necessary printed matter

4. Experience

a. A minimum of at least one year in food service

5. Desirable Characteristics

a. Neat and well groomed appearance

b. Pleasant and cooperative attitude

c. The ability to be punctual, to follow directions, to work well with others, and to accept constructive criticism.

F. Student Worker

1. Duties

a. Scrape and stack dishes or trays

b. Replenish milk

c. Cleanup during meal period

d. Assist in storeroom duties

e. Serve food only if supervised

f. Perform other duties in training programs conducted under the supervision of a classroom teacher and in conjunction with the school food service manager

2. Desirable Characteristics

a. Same as food service technician

G. Adult Volunteer

1. Duties

a. As designated by manager

2. Desirable Characteristics

a. Same as food service technician

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2164 (December 2001).

**§1113. Other Qualifications for School Food Service Manager and Food Production Manager/Assistant Manager**

A. Effective June 1, 1974, and thereafter, but not retroactive, school food service managers and food production managers/assistant managers must have certification numbers issued by Louisiana State Department of Education (LDOE), Division of Nutrition Assistance upon successful completion of the prescribed training courses. Each individual school food service unit shall have a certified manager assigned to oversee the food service operation. A certified manager may be assigned to more than one site. In cases in which a certified manager cannot be secured, a temporary certification may be issued for one year and renewed for two additional years. The necessary training for certification shall be successfully completed during this period. School food service funds shall not be used to pay

salaries of uncertified managers and food production managers/assistant managers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2165 (December 2001).

### **§1115. Description of Louisiana School Food Service Training Program**

A. The school food service training program consists of three levels or phases. It is the responsibility of the SFA to provide training for employees for Phases I and II.

B. Phase I is designed for all food service technicians/employees. Phase I consists of 49 audiovisual units, which present basic information in the areas of safety, sanitation, equipment, food production, food handling, working with others, and nutrition. While Phase I is not mandated, anyone whom the SFA wants to become a manager must pass the Phase I Manager exam. The only prospective school food service managers exempt from this requirement are those persons with an associate's, bachelor's, or master's degree from a regionally accredited institution with 18 semester hours of Food and Nutrition and/or Institutional Management.

C. Phases II and III are designed for food service manager applicants. Phase II consists of 22 written self-instructional units covering the areas of personnel, public relations, safety, sanitation, nutrition, food production, and property management.

D. SFAs are required to verify that employees enrolled for the Phase II examination have successfully completed Phase II training. The school food service director/supervisor shall sign a statement to that effect on the Phase II exam enrollment form. Successful completion of the Phase II training program by an employee is defined as meeting all of the following requirements:

1. reading each of the 22 units and completing all review exercises;
2. successfully completing all learning activities at the end of each unit; and
3. completing the activity checklist for each unit which includes the preceptor's signature.

E. Phase III is a one-week training course taught by State Agency staff. The topics include, but are not limited to, policies and history of Child Nutrition Programs, forms, food distribution, and meal service dietary concerns, as well as first aid and cardiac pulmonary resuscitation (CPR). To be registered for Phase III, the applicant shall have passed the Phase II examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2166 (December 2001).

### **§1117. Exam Administration Procedures**

A. The Phase I and II examinations will be administered twice a year at various locations. The Phase III examination will be administered at the conclusion of Phase III training.

B. A person who fails the Phase III examination may retake the examination within six months without repeating the Phase III training.

C. Upon successful completion of Phase III, the applicant will be assigned a certification number and issued a certification card.

D. Applicants not currently employed as acting managers shall complete the Manager Certification Program within five years from the date they first take the Phase I examination. These individuals may take the Phase I, II, and III examinations as many times as necessary to complete the Manager Certification Program, as long as all three phases are completed within five years from the date the first exam is taken. If all three phases are not passed within five years, the applicant must begin a new five-year cycle and completely start over with Phase I, unless exempt from Phase I.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2166 (December 2001).

### **§1119. Requirements/Procedures for Manager Certification for Non-Degreed Persons**

A. The applicant must possess a high school diploma or GED and must be an employee of a SFA in Louisiana.

B. The applicant must have successfully completed Phase I, Phase II and Phase III examinations, respectively.

C. The SFA shall submit to the State Agency a copy of each applicant's high school diploma or GED, or transcript verifying graduation, to enroll the applicant for the Phase I examination.

D. An applicant not currently employed as an acting manager shall complete the Manager Certification Program within five years from the date he/she first takes the Phase I examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2166 (December 2001).

### **§1121. Requirements/Procedures for Manager Certification for Degreed Persons**

A. Applicants holding an associate's, bachelor's, or master's degree from a regionally accredited institution with 18 semester hours of Food and Nutrition and/or Institutional Management may be exempt from taking the Phase I exam.

B. A degreed person must complete Phase II and Phase III training and pass the Phase II and Phase III examination.

C. The SFA shall submit to the State Agency a copy of the applicant's official college transcript to register applicant for the Phase II exam. The transcript will be reviewed to determine whether the individual has successfully completed the required 18 hours of Food and Nutrition and/or Institutional Management.

D. Degreed persons shall have three years from the date they first take the Phase II examination to be certified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2166 (December 2001).

### **§1123. Requirements/Procedures for Temporary Certification**

A. Temporary certification for an applicant may be requested only when no qualified certified manager desiring



the manager or food production manager/assistant manager position is available within the system.

B. An applicant must possess a high school diploma or a GED to receive a temporary certificate.

C. The request for a temporary certificate must be made at the time of the applicant's effective appointment date as manager. The local CNP director/supervisor shall submit, to the State Agency for approval, the prospective manager's name, starting date as manager, and a copy of the applicant's high school diploma or GED. Upon State Agency approval, a copy of the request will be returned to the School Food Authority for the applicant to assume said position.

D. Temporary certification (T2, T3) is granted for one year, August 1 through July 31. If all requirements for full certification are not completed within this year, temporary certification may be renewed; but the renewal may be issued only twice. A T2 shall be used to designate the second year. A T3 shall be used to designate the third and final year to complete the requirements. Renewal of temporary certification must be requested on the State form submitted to the State Agency prior to July 31 of each year for persons serving as acting managers.

E. Temporary certificates issued after January 1 will be valid through the following school year.

F. Acting managers and food production manager/assistant managers serving on temporary certificates must become certified within three years of the time the temporary certification was issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2166 (December 2001).

### **§1125. Employment Policies**

A. Policies regarding the time of reporting and leaving, permits to leave, number of days, hours per day to work, and salaries are all the responsibility of the SFA. Documentation is mandatory.

B. A salary schedule is desirable and wage/hour laws must be followed. Starting managers' salaries shall be higher than salaries of other site-based school food service employees. Food service employees may be retained by providing an adequate and equitable salary schedule. Salaries should be based on a classified salary schedule recognizing and compensating positions of equal level at the same rate, establishing differentials for positions that demand greater responsibility or ability. A specific wage shall be established for substitutes in accordance with wage/hour laws.

C. Fringe benefits are allowable. Fringe benefits may also include compensation for personal consumption or bonuses for schools/employees that meet preset goals. Meals served to school food service employees are considered a fringe benefit. (Refer to Financial Management and Accounting Chapter.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2167 (December 2001).

### **§1127. Personnel Policies**

A. The success of school food service programs depends to a large extent on the management and effectiveness of its

personnel. Personnel policies should be established in writing. Policies to be addressed with all school food service employees should include the following:

1. application for employment;
2. disciplinary procedures;
3. employee meals;
4. employee job responsibilities;
5. evaluations;
6. health requirements;
7. grievance procedures;
8. insurance and fringe benefits such as social security and retirement;
9. local agency's philosophy on CNPs;
10. organizational chart;
11. overtime pay;
12. payroll and wage verification;
13. professional organizations;
14. rest periods and breaks;
15. sick leave and vacation;
16. staffing assignments, steps, grades;
17. standards for employee appearance, grooming, work habits and food handling;
18. time and attendance records;
19. training;
20. uniforms;
21. work schedules.

B. Responsibilities and duties of all personnel shall be established. School systems must implement personnel policies in compliance with State regulations. The management of personnel must be consistent with all applicable Federal and State labor laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2167 (December 2001).

### **§1129. Personal Appearance**

A. Uniforms of the same color, effective hair restraints, hose or socks, and low-heeled, enclosed shoes with non-skid/slip-resistant soles that provide adequate protection are standard for school food service employees and volunteer workers. Aprons should be worn over uniforms during food preparation and clean-up periods. Student workers must also wear effective hair restraints, jackets, smocks, or aprons. All employees and volunteer workers should be clean and neat at all times. Artificial nails are prohibited. Jewelry must be restricted to wedding bands and/or stud earrings. A laboratory coat may be worn over a uniform. A washable sweater may be worn when necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2167 (December 2001).

### **§1131. Staffing for Individual Programs**

A. A staffing formula using "meals per labor hour" (MPLH) is an excellent tool to assist in determining the number of labor hours needed at an individual site or to determine the productivity rate of each site. The productivity rate or meals per labor hour (MPLH) is the number of meal equivalents (all lunches, ½ of all breakfasts, 1/5 of all snacks, extra sales meal equivalents) produced and served per hour of labor used. (Refer to Chapter 5: §531 for

additional information on converting breakfast, lunch, snacks, and extra sales into meal equivalents.) The MPLH may vary depending on the following factors:

1. type of food production system (on-site, central kitchen, bulk satellite, pre-plated satellite, etc.);
2. level of service (self-serve, plated on serving line vending, etc.);
3. menu choices (scratch cooking versus convenience items);
4. kitchen layout and design;
5. facility size;
6. skill level of employees, etc.

B. The following steps may be used to develop a target MPLH:

1. determine a feasible target MPLH for each site; the determination can be based on industry standards or on data provided from the previous year's staffing decisions with necessary adjustments.

$\frac{\text{Number of Meal Equivalents (Output)}}{\text{Number of Labor Hours (Input) Labor Hour (MPLH)}} = \text{Productivity Rate or Meals per Labor Hour (MPLH)}$
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2. calculate the MPLH for each site; an example is given below.

<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">Site: School 444</td> <td style="width: 30%;">No. Labor Hours Assigned: 36</td> <td style="width: 40%;">Target MPLH: 15</td> </tr> <tr> <td>Meals Served</td> <td>Meal Equivalents</td> <td></td> </tr> <tr> <td>ADP Lunch</td> <td>335</td> <td>335</td> </tr> <tr> <td>ADP Breakfast</td> <td>190</td> <td>95</td> </tr> <tr> <td>ADP Snack 76</td> <td>15</td> <td></td> </tr> <tr> <td>Extra Sales Equivalents* -----</td> <td></td> <td>8</td> </tr> <tr> <td>Total Meal Equivalents</td> <td></td> <td>453</td> </tr> <tr> <td colspan="3">MPLH = 453 meal equivalents ÷ 36 hours assigned labor = 14</td> </tr> <tr> <td colspan="3">Hours Over/Under: +1</td> </tr> </table>	Site: School 444	No. Labor Hours Assigned: 36	Target MPLH: 15	Meals Served	Meal Equivalents		ADP Lunch	335	335	ADP Breakfast	190	95	ADP Snack 76	15		Extra Sales Equivalents* -----		8	Total Meal Equivalents		453	MPLH = 453 meal equivalents ÷ 36 hours assigned labor = 14			Hours Over/Under: +1		
Site: School 444	No. Labor Hours Assigned: 36	Target MPLH: 15																									
Meals Served	Meal Equivalents																										
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ADP Breakfast	190	95																									
ADP Snack 76	15																										
Extra Sales Equivalents* -----		8																									
Total Meal Equivalents		453																									
MPLH = 453 meal equivalents ÷ 36 hours assigned labor = 14																											
Hours Over/Under: +1																											
<p>Meal Equivalents:</p> <p>1 lunch = 1 meal equivalent</p> <p>2 breakfasts = 1 meal equivalent</p> <p>5 snacks = 1 meal equivalent</p> <p>Extra sales income totaling the average cost of a meal from the previous school year = 1 meal equivalent</p>																											
<p>* Extra sales income from previous year ÷ meal equivalent factor/number of serving days =</p> <p style="text-align: center;">\$3,066.50 ÷ 2.26 ÷ 180 = 8</p>																											

3. make adjustments as deemed necessary to meet the target MPLH; in the example, the site may be considered overstaffed because it is producing 14 meals per labor hour, which is less than the targeted goal of 15 MPLH; the SFS Director must make a decision to accept this level of productivity, lower the number of labor hours at this site, or increase the number of meal equivalents (if possible) at this site.

C. Labor costs include all expenses paid to school food service personnel including the central office staff, and warehouse and maintenance employees (if paid with school food service funds). Fringe benefits such as Social Security taxes, medical taxes, life insurance, health insurance, worker's compensation, unemployment taxes, vacation days, sick leave, employee meals, and uniforms should be included in labor cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2167 (December 2001).

## Chapter 13. Equipment

### §1301. Planning

A. Efficient planning is essential to equip school food service departments and enable them to attain the objectives of the National School Food Service Programs. The complexity of building construction and the technical details of specifications and contractual procedures require the combined efforts of architects, consulting engineers, equipment specialists, sanitarians, and State and local school food service supervisory staff in all stages of planning and construction.

B. For information in planning and equipping school food service facilities, refer to the following:

1. "A Guide for Purchasing Food Service Equipment," USDA, FNS, NFSMI order number NFFSMI-R-35-98, NFSMI Telephone 1-800-321-3054 or Web Address <<http://www.olemiss.edu/depts/nfsmi>>

2. "The New Design Handbook" NFSMI, The University of Mississippi; P.O. Drawer 188; University, MS 38677-0188, Telephone 1-800-321-3054 Web Address <<http://www.olemiss.edu/depts/nfsmi>>

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2168 (December 2001).

### §1303. Initial Equipment

A. The School Food Authority (SFA), with funds other than school food service funds, shall furnish initial food service equipment for each school. Initial equipment is the equipment that a Sponsor is required to have to begin a School Food Service Program. This equipment is necessary for the basic preparation, storage and service of meals to children. It is not permissible for school food service funds to be used to repay the SFA for initial equipment. After the SFA has been granted approval for participation in NSLP and SBP, school food service funds may be used to replace worn out initial equipment or to purchase additional equipment.

B. Refer to the Table of Authorized Large and Small Equipment in the Appendix for details when planning school food service facilities. Asterisks identify minimum large equipment acceptable. Program purchases from this table need no prior State Agency approval. Small equipment designed to prepare, store and serve food is considered initial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2168 (December 2001).

### §1305. Purchase of Equipment

A. The acquisition cost of equipment used directly in the food service operation, installation costs, and the costs of repairs to such equipment are allowable program expenses. Purchase of equipment should be made in accordance with State and Federal regulations. (Refer to §1501: Purchasing Guidelines). All accounting practices must follow guidelines outlined in Bulletin 1929: Louisiana Accounting and Uniform Governmental Handbook, Bulletin 1929. When purchasing equipment, the food service director/supervisor should specify that equipment must comply with generally accepted sanitation and safety standards. The National

Sanitation Foundation (NSF) and Underwriters Laboratories (UL) seals on a product are widely recognized as evidence that the equipment meets sanitation and safety standards. Specifications should indicate the seals of approval such as NSF, UL and others when applicable. Upon request, the State agency school food service staff is available as consultants on school food service equipment. In accordance with State and Federal regulations, the expenditure of school food service funds for any items other than those specified will necessitate an audit adjustment of the total amount of the expenditure. All equipment for schools must be purchased by the SFA on a school system basis. For information on the purchase of equipment, refer to Chapter 15: Procurement.

B. The purchase of other equipment not listed in the tables of authorized equipment is sometimes necessary for the efficiency/effectiveness of the food service operation. Such purchases, however, require prior approval from the State Agency. Vehicles used for the sole purpose of School Food Service (distribution of commodities or meals in satellite programs and maintenance) may be purchased with prior written State Agency approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2168 (December 2001).

**§1307. Factors to Consider before Approving Purchases**

A. Consideration of the following conditions must be made before approving such purchase requests:

1. operating balance over the allowable amount permitted;
2. adequate supply of labor-saving equipment and small pieces of equipment to meet production needs;
3. documentation of contributions that will be made by the requested piece of equipment toward increasing participation and/or upgrading the total program;
4. the school's grade level, location, size and construction;
5. the method of distributing commodities;

6. knowledge of facility or an on-site visit by the State agency program manager prior to approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2169 (December 2001).

**§1309. Equipment Inventory**

A. An annual inventory of equipment valued at a unit acquisition cost of \$1000 or more with a useful life of one year or more is required. The SFA shall follow property management standards to safeguard school food service property as described in Chapter 3: Financial Management and Accounting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2169 (December 2001).

**§1311. Unauthorized Equipment**

A. Items such as the following are not authorized for purchase from school food service funds: home-type equipment such as chest freezers, small hand mixers, popcorn machines and initial equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2169 (December 2001).

**§1313. Disposal of Equipment**

A. Refer to §323: Disposition of Equipment for guidelines for disposing of equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2169 (December 2001).

**§1315. Appendix**

- A. Table of Authorized Large Equipment
- B. Table of Authorized Small Equipment

**Appendix A. Table of Authorized Large Equipment Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Chairs--	*	*	*	*	*	*	*
Tables--	*	*	*	*		*	*
DISHWASHERS, SINKS AND RELATED EQUIPMENT	1	1					
Dishwashers: Under the counter or free-standing (commercial)							
Single-tank door (automatic)			*1				
Single-tank conveyor with integral prewash				*1			
Double-tank conveyor with or without integral prewash					*1	*1	*1
OR Flight dishwasher (with integral prewash) with or without automatic tray stacker						*1	*1
Soiled dish table—minimum length of 100 inches includes area for receiving soiled table service, disposal, racking, etc.			*	*	*	*	*

\*Where more than one number is shown in the same block, the larger number is recommended. The number with an asterisk indicates minimal initial equipment.

**Table of Authorized Large Equipment (Cont'd.)  
Number of Lunches Served Per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Clean dish table--minimal length of 60 inches for door type dishwashers and 100 inches for conveyor-type. For conveyor-type dishwashers, a minimum of 100 inches of clean dish table in straight line is recommended before making a conventional 90o turn. However, if the turn is fabricated in accordance with the manufacturers' specifications for "curved rack guide," this design can make it possible for the turn to begin immediately following the discharge end of the dishwasher.			*	*	*	*	*
Disposers--3/4-1 1/4 HP units having no floor supports: Vegetable preparation or pot and pan sink Dishwashing area					1	1	1
Pulper-Extractors	1	1	1	1	1	1	1-2
Sinks: 2-compartment (vegetable sink) with integral drainboards 3-compartment with integral drainboards Hand--the exact number of hand sinks and compartment sinks will depend upon local health codes and whether there are partitioned areas specifically designated for baking, vegetable preparation, pre-preparation, cooking, etc., plus the overall dimensions of the various food preparation areas.				1	1	1	1
	*1	*1	*1	*1	*1	*1	*1
	*1	*1	*1	*1	*1	*1	*1

**Table of Authorized Large Equipment (Cont'd.)  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Water Systems For Dishwashers: Booster Heater—Minimum Size To Maintain 150° F Wash And 180° F Rinse Softner Water Heater—Minimum Size To Maintain 150° F Wash And 180° F Rinse	Need Determined By Location Of Water Heater And Type Of Dish Machine						
	As Needed						
	*	*	*	*	*	*	*
<b>FOOD PREPARATION EQUIPMENT</b> Convection Ovens: Single Stack Combination Oven/Steamer		*1	*1	*1	*1	*2	*3
			1	1	1	1	1-2
Where Space Is At A Premium, Double-Stack Convection Ovens Could Be Used In Lieu Of Two Separate Single-Stack Convection Ovens.							
Ranges—Utility: 12" To 18" Top Cooking Only (2-Burners Or 1 Rectangular Hot Plate)	1	1	1	1	1	1	1
Commercial Microwave Ovens	As Needed						
Hood, Ducts, Air Movement, And Fire Protection Equipment As Required By State Law	*	*	*	*	*	*	*
Deep Fat Fryer Mobile Filter	1	1	1	1-2	2	3	3
	As Needed						

**Table of Authorized Large Equipment (Cont'd.)  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Steamers: Low pressure or pressureless; universal pan slides (two compartments)			*1	*1	*1	*1 2	*2
Trunion Kettle (5 - 10 gallon)	1						
Steam-jacketed kettles and tilting-braising pans: 20 gallon kettle		1	1		?/		1
30 gallon kettle					*2	*2	
40 gallon kettle (tilting recommended)				*1			*2
60 gallon kettle, tilting					*1	*1	
OR 20-25 gallon tilting braising pan			1				
30-35 gallon tilting braising pan					*2	*2	
40 gallon tilting braising pan				*1			*2
Pot and kettle filler—swinging faucet for steam kettle and steamer		1	1	1	2	2	2

**Table of Authorized Large Equipment (Cont'd.)  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
FOOD MACHINES (MIXERS, VCM, CUTTERS, SLICERS)	*1						
Mixers—batter, beater, dough-hook, and wire whip: 12 qt. With attachment #2							
20 qt. With attachments #1, #2 and #3		*1	*1			1	1
30 qt. With attachments #1, #2 and #3				*1			
60 qt. With attachments #1, #2, and #3					*1	*1	*1
Attachments: 1. High speed drive							
2. Vegetable slicer and 5/16" shredding plates and grater.							
3. Bowl truck							
OR Food processor with attachments (2 1/2 quart)	1	1					
Vertical cutter mixer--continuous feed: 2 1/2 quarts			1	1			
6 quarts					1		
40 quarts					1	1	*1

**Table of Authorized Large Equipment (Cont'd.)**  
**Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Food cutters: A food cutter is not required if a school has a vertical cutter mixer or a mixer with necessary attachments. Table model					1	1	1
Food slicers: Electric (manually -operated)	1	1	1	1	1		
Electric (automatic) When preparing large quantities of sliced foods, schools should consider purchasing an automatic food slicer.		1	1	1	1	1	*1
Tables--food preparation: stainless steel, movable, shelves and drawers optional. Refer to references listed in the Planning section of the Equipment chapter for number and size needed.				1 6'	1 6-8'	*1 6-8'	*1 8'
Baker's	*1 6'	*1 6'	*1 6'	*1 8'	*1 8'	*1 8'	*1 8'
Cook's			1 6'	1 6-8'	*1 6-8'	*1 6-8'	*1 6-8'
Work							

**Table of Authorized Large Equipment (Cont'd.)**  
**Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
<b>REFRIGERATION EQUIPMENT</b>	*1	*1	*2	*2	*1	*1	*1
Refrigerators: Reach-in (number of sections)			3	3	2	2	2
Pass-through should have one section per serving Counter		*1	*1	*1	*2	*2	*3
Freezers: Reach-in (number of sections)	*1	*1	*2	*2	1	1	1
Walk-in: Refrigerator				1	*	*	*
Freezer--8' x 10' minimum size recommended: Refer to references listed in the Planning section of the Equipment chapter for size recommended.				1	*	*	*
Vinyl strip curtains for walk-in freezers, refrigerators and milk coolers	As needed						
Ice machine	Size needed may be determined by size of salad or specialty bar(s).						
<b>SERVING LINE EQUIPMENT</b>	Need and number determined by method of collection and number of serving lines						
Checker or cashier's section and accessory equipment such as chair/stool, cash box, shelving, etc.							
Cold food section—Refer to references listed in the Planning section of the Equipment chapter for size and number of wells needed.		*	*	*	*	*	*
Hot food section—Refer to references listed in the Planning section of the Equipment chapter for size and number of wells needed.		*	*	*	*	*	*

**Table of Authorized Large Equipment (Cont'd.)**  
**Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
<b>SERVING LINE EQUIPMENT (Cont'd.)</b>		*	*	*	*	*	*
Milk cooler—capacity to meet program needs. Approximately 1 cubic foot per 50 half pints.							
Salad bar	Number needed determined by number of serving periods and participation						
Pass-through holding cabinet	Number needed determined by number of serving counters						
Self-leveling carts, tableware, plate or tray	Number needed determined by number of serving lines						

**Table of Authorized Large Equipment (Cont'd.)**  
**Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
<b>OFFICE EQUIPMENT</b>	1	1	1	1	2	2	2
Individual School (Manager's office)							
Desk							
Chair	1	1	1	1	2	2	2
Cabinet—locking:	*1	*1	*1	*1	*1	*1	*1
File							
Storage	1	1	1	1	1	1	1
Calculator/adding machine	1	1	1	1-2	2	2	2
Computer	The type and number of computers and & printers purchased should be determined by the type of meal service for the school and the student participation.						
Printer							
Facsimile Machine	1	1	1	1	1	1	1
Telephone	1	1	1	1	1	1	1
Central Office: Computer	The size and amount of equipment purchased should be determined by the number of employees, student participation and usage. Only one copier and facsimile machine may be purchased with school food service funds. The type and number of computers and printers purchased should be determined by the size and complexity of the SFA.						
Printer							
Scanner							
Computer hardware							
Computer software							
Audio-visual equipment							
Calculator/adding machine							
Chairs							
Conference table and chairs							
Copier							
Desk							
Desk lamp							
Facsimile machine							
Telephone							

**Table of Authorized Large Equipment (Cont'd.)**  
**Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
<b>MISCELLANEOUS EQUIPMENT</b>	As Needed						
Cabinet, holding hot and cold, should be equipped with Universal pan slides.	As Needed						
Reach-in	As Needed						
Mobile	As Needed						
Burglar Alarm	As Needed						
Heat lamps (counter unit or wall mounted)	As Needed						
Washer and/or dryer-clothes	1	1	1	1	1	1	1
Wet-dry vacuum cleaner, commercial size	1	1	1	1	1	1	1
Floor polisher or cleaner	1	1	1	1	1	1	1
Fan, pedestal, ceiling or window	Number determined by size of facility						
Fan, exhaust type, for exhausting fumes from kitchen and ventilating storeroom.	*	*	*	*	*	*	*
Handwashing facilities, for students	Number determined by number of serving lines and/or cafeteria entrances						

**Appendix B . Table of Authorized Small Equipment  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
<b>CLEANING EQUIPMENT</b>							
Brooms:	1	2	2	3	3	3	4
Heavy sweeping type							
Floor--bristle 15" or 16"	1	1	2	2	2	2	2
Floor--soft push 16" or 18"					2	2	2
Brushes:	1	1	2	2	3	3	4
Gong--5" x 6", short handle, nylon bristle							
Gong--5" x 6", long handle, nylon bristle	1	1	2	2	3	3	4
Kettle drain--nylon bristles	As Needed						
Kettle--nylon bristles	As Needed						
Scrub--nylon or fiber bristles	1	1	2	2	2	2	2
Wire type--app. 2" x 8" fine steel bristles	1	1	1	1	1	1	1
Mop:	2	2	2	4	4	4	6
Wet--heavy duty, string or sponge, detachable wood handle							
Mop bucket	1	1	2	2	2	2-3	3

**Table of**

**Authorized Small Equipment (Cont'd.)  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Pails:	1	1	2	2	2	2	2
Water--12 quart plastic or galvanized metal with a bale handle							
Pans:	1	1	1	2	2	2	2
Dust--12" or 16" with long handle, heavy duty							
<b>DINING EQUIPMENT</b>							
Dispensers/Stands:	As Needed						
Napkin --corrosion resistant material							
Straw--corrosion resistant material	As Needed						
Condiment --corrosion resistant material or plastic	As Needed						
Flatware--stainless steel, medium weight or disposable:							
Forks	As Needed*						
Knives	As Needed						
Spoons	As Needed						
Tableware:							
Bowls cereal, fruit and soup	As Needed						
Cups							
Disposable Cups and/or bowls	As Needed						
Compartment plates or trays:							
Disposable or non-disposable plates and/or trays	As Needed						
Four-compartment plates							



**Table of Authorized Small Equipment (Cont'd.)  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
OR	As needed*						
Six-compartment tray	As needed*						
Flat serving tray	As needed*						
Tumblers: Heat treated	As needed						
<b>DISHWASHING EQUIPMENT</b>							
Baskets or racks:	As needed*						
Sterilizing tableware	As needed*						
Silver	As needed*						
Carts:							
Flatware and tray with shelf at top to accommodate plastic cylinders for flatware. Recommended when using service trays and plates.	As needed						
OR	As needed						
Flatware. Recommended when using compartment trays.	As needed						

**Table of Authorized Small Equipment (Cont'd.)  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
AND	As needed						
Plate/Tray-self-leveling unit should be adjustable.	As needed						
Flatware cylinders	As needed						
Garbage containers:							
Heavy duty with lid and fit under drop-off chute in dishroom	As needed						
Garbage can dollies (if cans are used)--steel frame	As needed						
Racks:							
Lightweight plastic—various types to accommodate table service used in operation: i.e., compartmentalized tray, service tray, plates and flatware	As needed						

**Table of Authorized Small Equipment (Cont'd.)  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Dish dolly--to hold standard dish racks	As needed						
Pot	As needed						
Soak tanks for flatware:  Designed to hold one combination dish rack; should have closing drain and locking wheels	As needed						
<b>PREPARATION AND SERVING EQUIPMENT</b>	1	1	2	2	2	2	3
Beaters:  Wire whip – 14" to 20"; corrosion resistant							
	1	2					
Board:  Cutting--18" x 24" x 3/4"; plastic or composition rubber	As needed						
Boilers:  Double--flat bottom insert with fitted cover; aluminum or stainless steel; hotel weight:  12 quart  20 quart (if kettle not available)	As needed						
	As needed						

**Table of Authorized Small Equipment (Cont'd.)  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Bowls:  Mixing--aluminum, plastic, or stainless steel:							
4 quart	1	1					
8 quart	1	1	1				
16 quart		1	1	1	1	1	1
24 quart			1	1	1		
30 quart					1	1	1
Bowl stand:  For hand-mixing bowls, stainless steel or aluminum, with or without pan rack below			1	1	1	1	1
Brushes:  Pastry--nylon bristles and handle	1	2	3	3	3	3	4
Vegetable--nylon bristles and handle	1	2	2	3	3	3	3
Can opener:  Institutional table mounted, manual, or electric heavy duty	1	1	1	2	2	2	2

**Table of Authorized Small Equipment (Cont'd.)  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Chopper: All-purpose, approximately 3 lb. capacity, manual, non-corrosive metal	1	1					
Colanders: Heavy duty aluminum or stainless steel:							
11 quart	1	1	1	1	1	1	
16 quart		1	1	1			1
21 quart			1	1	2	2	2
Cooling racks: Aluminum or stainless steel, universal pan slides	As needed						
Cutlery: Knives—blades of high carbon content or stainless steel, full long construction; NSF-approved with plastic handles Boning--6" flexible narrow blade	1	1	1	2	2	3	4
Boning--6" stiff wide blade	1	1	1	2	2	3	4
Bread	1	1	1	2	2	3	4
Butcher (optional)	As needed						
French cook's--10" blade	1	1	1	2	2	2	3

**Table of Authorized Small Equipment (Cont'd.)  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Fruit--6"	1	1	1	1	1	1	1
Paring—carbon, spear, or clip point app. 2 1/2 -3" blade	2	2	2	2	2	2	3
Slicing--12", serrated edge	1	1	1	2	2	2	3
Knife sharpeners: Carborundum	1	1	1	1	1	1	1
Steel 12" magnetized	1	1	1	1	1	1	1
Knife holder	1	1	1	2	2	2	2
Peeler: Fruit and vegetable, swivel, hand-operated	1	1	1	2	2	2	3
Server: offset blade 2 1/4" x 2 1/4"	1	1	2	2	4	4	4
Sectioner: 6-8 parts, knives of high grade carbon steel	1	1	1	2	2	2	2
Spatulas: Wide blade, short handle for serving	1	1	1	2	2-4	2-4	4
8-10", long, narrow or wide	1	1	2	2	4	4	4
Spreader: sandwich, flexible 4" blade	1	2	2	2	2	2	3
Turner: Utility--heavy duty long handle, 3" x 8" blade	1	1	1	2	2	2	2

**Table of Authorized Small Equipment (Cont'd.)  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Wedge and Corer (for fruit)—stainless steel blade	1	1	1	2	2	2	2
Cutters:							
Biscuit—hand	1	1	2				
Biscuit—rolling pin type				1	1	2	2
Multi-cutter—3" diameter, 5-wheel				1	1	1	1
Dredges (shakers):	1	1	1	2	2	3	3
Salt, pepper, and spices; aluminum, seamless							
Forks:							
Cook's pot—long handle, 21"	1	1					
Cook's—12"-18", 2 tines, forged hardwood handle	1	1	1	4	4	4	4
Sanitary plunger type—per counter	1	1	1	1	1	1	1
Funnels—aluminum or plastic:							
1 pint	1	1	1	1	1	1	1
1 quart	1	1	1	1	1	1	1

**Table of Authorized Small Equipment (Cont'd.)  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Grater:							
Hotel—hand, heavy duty, aluminum or stainless steel, fine or coarse	1	1	1	1	1	1	1
Ladles--stainless steel portioning:							
2 oz., 10"-12"	1	1	1	2	2	2-4	4
4 oz., 12"-14"	1	1	1	2	2	2-4	4
8 oz.	1	1	1	2	2	2-4	4
Transferring—1-4 quart, stainless steel				1	1	2	2
Long handled server (2 oz., 4 oz. and 8 oz.)	1	1	1	2	2	2-4	4
Measures—aluminum or stainless steel:							
Spoon set	2	2	3	4	4	4	4
Cup set—graduated with pouring lip	2	2	4	4	4	4	4
Quart—graduated	1	2	2	2	2	2	4
Gallon—graduated		1	1	2	4	4	4
Mixer bowl dolly--use with 30-quart mixers or larger	As needed						
Mixer stand—for 20-quart or smaller mixers, stainless steel, with locking wheels, with rack for attachments	As needed						

**Table of Authorized Small Equipment (Cont'd.)  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Paddle--kettle, perforated aluminum or stainless steel, sized to fit kettle	One per kettle						
Pans--aluminum or stainless steel, heavy duty:							
Bun or sheet--17 3/4" x 12 7/8" x 1"	1	1	1	2	2	2	2
Bun or sheet--18" x 26" x 1"		6	12	24	32	32	40
Muffin--12 or 24 cups per frame, aluminum	2 or 4	6 or 12	8 or 16	10 or 20	12 or 24	24 or 48	27 or 54
Sauce--2 quart, long handle	1	1	1	1	1	1	1
Sauce--4 quart, long handle	1	1	2	2	2	2	2
Serving--20" x 12" x 2 1/2"	4	6	8	20	32	40	48
Serving--20" x 12" x 4"	2	2	3	5	10	12	14
Serving--half size, 10" x 12" x 2 1/2"	1	1	1	2	2	3	6
Serving--half size, 10" x 12" x 4"	1	1	1	2	2	3	6
Pitchers:							
Batter--2 quart, stainless steel or aluminum			1	1	1	1	2
Portion filler--for preparation of flowable food into single service containers	Optional						
Water--aluminum or stainless steel	Optional						
Pots--stock, aluminum, hotel weight:							
3 gallon with cover	1	1					

**Table of Authorized Small Equipment (Cont'd.)  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
6 gallon with cover	1	2					
Rolling pin--heavy duty, 4" x 14", revolving handles	1	1	1	2	2	2	2
Scales:							
Counter or baker's 25-30 lb. with 1/4-1/2 oz. graduations, balanced type	1	1	*1	*1 2	*1 2	*1 2	*2 3
Portion--1/4 oz. graduation	1	1	1	1	1	1	1
Scoops:							
Flour--die-cast aluminum, seamless 32 oz. or 48 oz.	1	1	2	2	2	4	4
Portioning--stainless steel, plastic handle:							
Size numbers 8, 10, 12, 16, 20, 24	1 each	2 each	2 each	4 each	4 each	4 each	6 each
Size numbers 6, 30, 40	1 each	1 each	1 each	2 each	2 each	2 each	2 each
Scrapers:							
Plate--rubber	1	2	4	4	6	6	6
Bowl--rubber 4" to 6" wide flexible nonmetallic blade	1	1	2	4	6	6	6
Dough--stainless steel blade, 6"; wood handle			1	1	2	2	2
Shears--kitchen, 7" to 8" steel	1	1	2	2	2	2	2
Sieve--flour, aluminum 16" to 20" diameter	1	1	1	1	1	1	1

**Table of Authorized Small Equipment (Cont'd.)  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Skimmer—stainless steel or aluminum 4" to 6" diameter with app. 12" handle	1	1	1	1	1	1	1
Slicer--egg, double piano wire, cast aluminum	1	1	1	1	1	1	1
Spoons:							
Stirring--14" to 18" long, solid stainless steel	1	2	3	4	4	4	4
Serving--solid, slotted and perforated, stainless steel	4	6	7	10	10	10	12
Strainer--10" to 12" diameter	1	2	2	2	2	2	2
Thermometers:							
Bimetal--range 0° to 220°F in 2° scale division	As needed						
Meat--range 140° to 200°F in 5° scale divisions	As needed						
Oven range 200° - 600°F in 10° scale divisions	As needed						
Refrigerator/freezer--range -40° to 120°F in 3° scale division	As needed						
Tongs:							
Serving	2	2	2	4	4	4	6
Spaghetti	1	1	1	2	2	2	4
Trays:							
Serving--12" x 16" or 14" x 18"	Determined by type of service						

**Table Of Authorized Small Equipment (Cont'd.)  
Number Of Lunches Served Per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
<b>STORAGE EQUIPMENT</b>							
Baskets	As needed						
Cans or containers:							
20-30 gallon, tight fitting lids, galvanized metal or heavy duty plastic; for storage, equipped with dolly	3	4	4	4	6	6	6
<b>OR</b>							
Stainless steel or heavy duty plastic (portable to fit under baker's table) bins used for storage	3	4	4	4	6	6	6
Carts:							
Utility--2 or 3 stainless steel or fiberglass shelves, stainless steel or aluminum tube frame	As needed						
Containers:							
Food storage with lids	1	2	2	2	3	4	4

**Table of Authorized Small Equipment (Cont'd.)  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Dolly: With removable handle (case cart) 19" x 25" platform to accommodate two cases of #10 cans per tier	As needed						
Racks: Bun pan	As needed						
Can	As needed						
Dunnage	As needed						
Refrigerator storage, slotted shelves for air movement.	As needed						
Scales: 250 lb. Capacity Dial type – mobile Or Beam – counter or mobile, floor model Or Digital			1	1	1	1	1
Shelving: Dry storage—noncorrosive material	As needed						
Skids: Semi-live, 800-pound capacity, 24" x 36" platform size; should have small turning radius	As needed						

**Table of Authorized Small Equipment (Cont'd.)  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Thermometers: Refrigerator and freezer, range -40° to +70°F in 1° scale divisions	At least one per refrigerator unit						
Dry storage in pantry, range -20° to +120°F in 2° scale divisions	As needed						
Trucks: Hand—2-wheel; 500 lb. Capacity, tubular or channel steel Frame	As needed						
Hand—4-wheel, 800-pound capacity, steel frame, wood or steel body, counter sink bolts, 24" x 42"	As needed						
<b>MISCELLANEOUS</b>							
Clock: Electric	1	1	1	1	1	1	1
Cutters: Wire	1	1	1	1	1	1	1
First Aid Kit	1	1	1	1	1	1	1
Sanitizer test kits	As needed						
Garnishing kit	1	1	1	1	2	2	3
Fire blanket: to meet State standards	1	1	1	1	1	1	1
Fire extinguisher: to meet State standards	1	1	1	1	1	1	2

**Table of Authorized Small Equipment (Cont'd.)  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Hammer: with nail puller	1	1	1	1	1	1	1
Ice pick	1	1	1	1	1	1	1
Ladder—aluminum							
Hose—heavy duty	As needed						
Mats: Floor—interlocking synthetic, rubber or vinyl, slip resistant, grease and alkali resistant	As needed						
Pastry bag with cake decorating tubes							
Blenders-heavy duty	As needed to prepare special diets						
Pliers	1	1	1	1	1	1	1
Screwdriver	1	1	1	1	1	1	1
Stools—step-type	1	1	1	1	1	1	1
OPTIONAL ITEMS							
Fry pan—14"	1	1	1	1	1	1	1
Gloves: Heavy-duty elbow length	1	1	2	2	4	4	6
Rack: Broom and mop—stationary type	As needed						

**Table of Authorized Small Equipment (Cont'd.)  
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Disposable bag			1	1	1	1	1
Towel—portable or folding type	1	1	1	2	2	2	2
Roast pans—heavy-duty aluminum:							
5-6' deep	1	1	1	1	1	1	2
Square, 2 gallon	1	1	2	2	2	2	2
Salt and pepper shakers	Determined by method used						
Equipment cart: With stainless steel side trays, with or without pan rack below, locking wheels, aluminum or stainless steel frame	As needed						
Timer: Range of 60 minutes, marked in one-minute scale divisions	1	1	1	1	1	1	1
Dispensers:							
Foil	As needed						
Paper towels	As needed						
Soap	As needed						
Wax paper	As needed						
Waste containers: Restroom, foot operated Kitchen area	As needed						
Safety belts	As needed						



## Chapter 15. Procurement

### §1501. Purchasing Guidelines

A. The goal of school food service (SFS) is to serve nutritious, attractive, and moderately priced meals. Meals that meet these standards are the result of effective planning and management including planning, purchasing, preparation and service. The meals served can be no better than the quality of food purchased. Wise purchasing practices help upgrade the quality of food served, increase participation, reduce waste and control costs.

B. An organized and efficient procurement procedure, which is an important aspect of food service, is essential for good management of the food service program. The SFS supervisor or manager should be responsible for determining the quality, quantity, performance, and usage of each product purchased. SFAs must have a written procurement plan that contains the code of conduct and describes procurement procedures. (Refer to §1735 for a sample procurement plan.)

C. Procurement procedures must ensure that all Federal and State laws and regulations governing procurement are followed when purchasing materials and supplies utilized in the SFS program. These procedures include equipment, vehicles, and other movable property, food items and other supplies used in food service. It is not allowable to use school food service funds to purchase initial equipment for a school food service program. (Refer to Equipment Chapter.)

#### 1. Federal procurement standards

a. United States Department of Agriculture, Code of Federal Regulations (CFR) Chapter 7 CFR Parts 210.21, 3015 “Uniform Federal Assistance Regulations, 3016 and 3019 “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments” (3016) and “Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations” (3019); 7 CFR Part 3017 “Government-wide Debarment and Suspension” and 7 CFR Part 3018 “New Restrictions on Lobbying” (Revised January 1, 2001). Website addresses:

[http://www.access.gpo.gov/nara/cfr/waisidx\\_01/7cfr3016\\_01.html](http://www.access.gpo.gov/nara/cfr/waisidx_01/7cfr3016_01.html);  
[http://www.access.gpo.gov/nara/cfr/waisidx\\_01/7cfr3017\\_01.html](http://www.access.gpo.gov/nara/cfr/waisidx_01/7cfr3017_01.html);  
[http://www.access.gpo.gov/nara/cfr/waisidx\\_01/7cfr3018\\_01.html](http://www.access.gpo.gov/nara/cfr/waisidx_01/7cfr3018_01.html); and  
[http://www.access.gpo.gov/nara/cfr/waisidx\\_01/7cfr3019\\_01.html](http://www.access.gpo.gov/nara/cfr/waisidx_01/7cfr3019_01.html).

b. The State procurement standards are found in §1581 of the Louisiana Procurement Code (La. R.S.39:1581) (Refer to the Louisiana Department of Education web site, [www.doe.state.la.us](http://www.doe.state.la.us), publications-Bulletin 1929: Louisiana Accounting and Uniform Governmental Handbook.)

D. All procurement transactions shall be conducted in a manner so as to provide maximum open and free competition:

1. without regard to dollar value;
2. regardless of whether by sealed bids or by negotiation;
3. without practices that restrict or eliminate competition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2169 (December 2001).

### §1503. Procurement Systems

#### A. Competitive Sealed Bids (Formal)

1. All purchases of materials and supplies exceeding the aggregate sum of \$10,000 must be formally bid. Aggregate is defined as the dollar value of items purchased from a single source for a bid period: for example, quotations are obtained on a food item for a two-month period, but the foods are ordered weekly during that period. No weekly invoices total \$10,000, but the total invoices during the two-month period are over \$10,000. In this example, the aggregate amount is the value of all items purchased during the two-month period, so the item must be formally bid.

2. Breaking up purchases with the intent of circumventing formal advertising procedures is contrary to Federal procurement regulations. Any change in the SFAs normal purchasing practices resulting in the aggregate amount purchased becoming less than \$10,000 must be documented for review and audit purposes.

3. SFAs may divide schools into districts, but assigning each district to a local vendor is prohibited. This practice would not allow open and free competition. Schools may be divided into districts to organize deliveries efficiently, but an adequate number of vendors must be allowed to submit price quotations for any or all of the districts.

4. Act No. 349, 1794 of State law requires every SFA to follow formal bid procedures for the purchase of milk and milk products for use in its schools regardless of dollar value.

5. Formal bid procedure requires formal advertising with adequate purchasing descriptions, sealed bids and public bid openings. The SFA desiring to let a contract for the purchase of materials or supplies shall in its resolution providing for the contract or purchase and for the advertisement of bids designate the time and place that the bids will be received and shall at that time and place publicly open the bids and read them aloud.

#### a. The Advertisement

i. The advertisement for any contract for materials and supplies shall be published two times in the local newspaper that serves as the official journal for the SFA, the first advertisement to appear at least 15 days before the opening of the bids. The first publication of the advertisement shall not occur on a Saturday, Sunday, or legal holiday.

ii. The advertisement for competitive sealed bids must contain the following information:

- (a.) name of the School Food Authority;
- (b.) general category or description of what is to be bid;

- (c.) date, time, and location of opening bids;
- (d.) address and telephone number for location where invitation to bid and general detailed instructions and specifications may be obtained;
- (e.) notice that the “public is invited.”

b. Statement of Percentage and Dollar Amount of Federal Funding (7 U.S.C.A. S 2209d)

i. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects funded in whole or in part with Federal money, all grantees receiving Federal funds, including but

not limited to State and local governments, shall clearly state the following information:

(a.) the percentage of the total cost of the project or program to be funded with the Federal money, and

(b.) the dollar amount of Federal funds for the project or program.

ii. In order to comply with this requirement, SFAs may complete the following statement and include it in issued statements, press releases, requests for proposals, bid solicitations, and other documents:

(a.) "The (Name of SFA) \_\_\_ School Food Service Program is funded \_\_\_ (number) percent with Federal funds for a total of approximately \$\_\_(Dollar/Units) per year."

iii. Plans and specifications shall be available to bidders on the day of the first advertisement and shall continue to be available until 24 hours before the bid opening date.

iv. When a SFA mandates attendance by bidders at pre-bid conferences as a prerequisite to bid, the date, place, and time of the pre-bid conference shall be stated in the first advertisement notice.

c. Receiving Sealed Bids

i. Each bid shall be either hand delivered by the bidder or his agent in which instance the deliverer shall be handed a written receipt, or shall be sent by registered or certified mail with a return receipt requested. The requirement that all bids be sent by registered or certified mail does not apply to public and parochial governing authorities..

ii. No SFA shall accept or take any bids, including receiving any hand delivered bids, on days which are recognized as holidays by the United States Postal Service (Louisiana Public Bid Law 2212(ii)).

iii. Federal regulations require sealed bids to be date stamped and maintained in a secure place until the time of bid opening. A locked file cabinet, a locked metal box or a place where there could be no question of tampering is a secure location.

d. Public Bid Opening

i. At least two employees of the SFA should be present at the public bid opening. These employees should be involved directly with the procurement process. It is desirable to have representatives from the SFS program and/or the Purchasing Department. One person should open the bids and read the prices and the other person should record the prices. School board members are not required to be present unless mandated by local policy. Since Federal regulations mandate that the bids be opened publicly, vendors and other interested parties may also attend.

ii. The opening of bids shall be conducted at the time and place indicated in the advertisement. Bids that do not arrive at the designated place by the appointed time shall not be considered and shall not be opened. They should be marked with the time received and returned to the bidder unopened. No SFA shall open any bids on days recognized as holidays by the United States Postal Service [Louisiana Public Bid Law 2212(ii)].

e. Awarding the Bid

i. No comment should be made at bid opening about the low bid or about the bid award. The bid should be awarded only after careful review of the apparent low

bidder's responsibility and responsiveness. Responsibility refers to the character or quality of the bidder, whether it is an entity with which you are safe doing business (Louisiana Public Bid Law). Responsiveness refers to whether or not the bidder has offered in its bid what has been requested in the specifications (Louisiana Public Bid Law).

ii. The provisions and requirements of the Louisiana public bid law, those stated in the advertisement for bids, and those required on the bid form shall not be considered as informalities and shall not be waived.

iii. When a SFA enters into an estimated use or delivery contract for a perishable food item, the SFA shall be prohibited from awarding another estimated use contract for the same perishable food item without first having taken delivery of at least seventy-five percent of the perishable food item under the existing contract. Perishable food items are consumable food items that have a shelf life of fewer than six months.

f. Awarding Other than Low Bid

i. Causes for selecting a bid higher than the lowest bid might be the following:

(a.) The item or service bid is not responsive to the specifications, to the invitation to bid, or to the general instructions.

(b.) The bidder is not responsible. Vendor integrity has been documented by the vendor's record of past performance.

(c.) The bid is awarded because of the Louisiana Preference Law.

(d.) The financial and technical resources of the bidder are not adequate.

(e.) There is evidence of noncompliance with public policy (EEO, EPA, etc.).

ii. A SFA should document on the bid evaluation sheet the reason the lowest bid was not accepted. If the bid is not responsive, the SFA should document what requirement it did not meet. If the SFA knows that a vendor is not responsible, every effort should be made to disqualify the vendor prior to the issuing of invitations to bid. This action would prevent the possibility of having to decline a low bid.

g. Special Prices

i. Once a bid has been accepted and a vendor offers an item at a lower price than the bid price, the SFA is not free to obtain bids or quotations from anyone other than the vendor who has received the contract unless

(a.) an amount has been specified in the bid;

(b.) that amount will still be purchased from the bidder; and

(c.) the SFA wants to purchase an amount in addition to what was bid.

ii. Small purchase procedures or competitive sealed bids must be used in obtaining prices on additional merchandise. The SFA would also be required to make a written explanation of why it needs to purchase the additional merchandise and file the explanation with the bid or quotation information.

iii. When a vendor offers an item not presently used at a special price below market value, all purchases must be based on specifications that clearly describe the item to be purchased. If the SFA has tried a new product and would like to purchase it, a clear description of the item must be written; and depending on the amount to purchase,

small purchase procedures or competitive sealed bids must be used.

iv. When a vendor offers incentives such as stamps, equipment, or other prizes, the prices paid for all purchases should be based solely on the bid or quotation offered by responsible seller giving the lowest price meeting specifications. When “incentives” such as prizes, stamps, equipment, etc., are offered and accepted, the “incentive” must become the property of the school food service program and under no condition the property of an individual. Special offers often mean higher prices, or lower quality, or both. Frequently, special prices are offered on old merchandise that the vendor wants to move. Promotional items or cash rebates received from vendors must be used for school food service purposes.

h. Rejecting Bids

i. The SFA may reject any and all bids for just cause pursuant to State law. All reasons for rejecting bids must be documented in the procurement file and retained for a period of three years.

i. Disqualifying a Bidder

i. To disqualify a vendor who fails to deliver certain items or delivers items that do not meet specifications, the SFA should document the problem, noting the date and writing an accurate description of the problem. The vendor must be notified by telephone of the problem and of how the problem should be corrected. With even the best vendors, problems occasionally arise; frequently a single telephone call is all that is needed to correct a problem. A record should be kept of the dates of all telephone calls and the information discussed shall be maintained in the event that talking with the vendor does not resolve the problem. If the problem continues, the SFA should give the vendor written notification of the problem, indicating that immediate correction is expected and that failure to do so will be considered a breach of contract and could result in the cancellation of the contract. If the vendor seems to be making little effort to resolve the problem, the SFA should discuss the problem with the school board attorney and explore other options. If cancellation of the contract becomes necessary, steps should be taken to disqualify the vendor from future bidding. If the contract is not canceled, the SFA may want to consider taking action to disqualify the vendor from future bidding.

ii. A bidder disqualified for lack of responsibility must be notified and given an opportunity for a hearing. Rejecting a bid because of unresponsiveness requires only that the bidder be informed of why the bid was rejected.

j. Withdrawing a Bid

i. Bids containing obvious mechanical, clerical, or mathematical errors may be withdrawn by the bidder if clear and convincing sworn, written evidence of such errors is furnished to the SFA within 48 hours of the bid opening excluding Saturdays, Sundays, and legal holidays. If the SFA determines that the error is an obvious mechanical, clerical, or mathematical error, it shall accept the withdrawal and return the bid security to the contractor. Otherwise, withdrawal of a bid shall result in the forfeiture of any bid bond that has been submitted.

ii. A bidder that attempts to withdraw a bid under the provisions of this section shall not be allowed to resubmit a bid on the contract. If the bid withdrawn is the

lowest bid, the next lowest bid may be accepted. If all bids are rejected, any bidder that had withdrawn a bid prior to rejection of all bids shall not be eligible to bid on the contract unless the readvertisement and opening of bids is at least 180 days after the date the bid was withdrawn.

k. Inspecting Bids

i. Bids are public records that may be inspected and copied, but precautions should be taken to prevent tampering.

l. Items Omitted From Bid

i. Before a bid is sent out, every effort must be made to determine that all items needed during the bid period are listed. If an item, or several items, is accidentally omitted, the SFA must purchase the item(s) using small procurement procedures or competitive sealed bids, depending on the dollar value of the purchase. The reason that the items were not included in the original bid should be documented.

m. Documentation

i. For each formal bid, the following documentation should be maintained on file for at least three years after final payments have been made for the Federal fiscal year to which they pertain:

(a.) a copy of the Invitation to Bid, including instructions to vendors and specifications;

(b.) a copy of public advertisement(s);

(c.) a dated mailing list of vendors who were mailed a copy of the bid;

(d.) bids submitted by vendors with bid envelope and a copy of the receipt if hand delivered attached;

(e.) a bid evaluation sheet, including documentation whenever the lowest price is not accepted;

(f.) copies of bid award letters and letters to unsuccessful bidders; and

(g.) copies of contracts;

(h.) the original signed Certificate of Independent Price Determination form, for all bids received even though bidder was not awarded a contract,

(i.) any original signed Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions, Certification Regarding Lobbying, and Disclosure of Lobbying Activities forms, for all bids received even though the bidder was not awarded a contract.

6. To ensure compliance with Federal and state procurement regulations, SFAs shall include the following certifications by bidders, as applicable, in the formal solicitation document (Refer to §1735 for the blank forms and instructions.):

a. Certificate of Independent Price Determination (All bidders);

b. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions (All contracts > \$100,000-See §1717);

c. Certification Regarding Lobbying (All contracts > \$100,000-See §1717);

d. Disclosure of Lobbying Activities (as applicable).

B. Small Purchase Procedures (price quotes)

1. Small purchase procedures may be used when

a. the aggregate amount does not exceed \$10,000.00; and/or

b. the purchases are for highly perishable materials.

2. Purchases of materials and supplies for which the aggregate amount does not exceed \$10,000 shall be made by obtaining an adequate number of price quotations. The adequate number of price quotations for any items purchased under small purchase procedures that must be obtained is determined by local market conditions. Regardless of dollar value, the SFA must have open and free competition. If in a small rural parish there are only two produce vendors that provide service to the area, two quotes may be sufficient. However, in a larger metropolitan area where there are six produce vendors, all six should be given an opportunity to submit price quotations.

3. Price quotes can be oral or written. At least three telephone, handwritten or facsimile quotations must be obtained for materials and supplies costing less than \$10,000. A written confirmation of the accepted offer shall be obtained and made part of the purchase file. If quotations lower than the accepted quotations are received, the reasons for their rejection shall be recorded in the purchase file. All written documentation must be maintained on file for three years after final payments have been made for the Federal fiscal year to which they pertain.

a. Written Invitations for Quotations

i. Written invitations for price quotations shall contain complete specifications and the quantity required, and any other information, including the delivery point, necessary for a supplier to make an acceptable quote.

b. Documentation for Price Quotations

i. The following information must be maintained on file:

(a.) for telephone quotations, a record of all prices quoted on a bid evaluation sheet and items awarded;

(b.) a record of price quotes dated and signed by the person receiving the quotes;

(c.) a copy of written invitations for price quotations including instructions to vendors and specifications;

(d.) the dated mailing list of vendors who were mailed a copy of the invitation for price quotes; and

(e.) a listing of price quotes submitted by vendors.

7. Record Retention. All written documentation shall be maintained for three years after submission of the final Claim for Reimbursement for the fiscal year to which they pertain. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2183 (December 2001).

### **§1505. Geographic Preference**

A. Geographic preference in procurements under USDA entitlement programs is prohibited (7CFR , parts 3015, 3016 and 3019).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2186 (December 2001).

### **§1507. Non-Resident Firms**

A. Non-resident (out-of-state) firms must provide written documentation that all taxes assessed by the State and its political subdivisions have been paid. These include franchise taxes, privilege taxes, sales taxes and all other taxes for which the non-resident firm is liable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2186 (December 2001).

### **§1509. Other Procurement Methods**

A. Competitive Negotiation

1. Competitive negotiation will be used when competitive sealed bids are determined to be inappropriate or unfeasible. Competitive negotiation is often used for the purchase of produce and the acquisition of professional services. Produce is commonly purchased by obtaining written price quotes based on written specifications. Competitive negotiation is especially appropriate when the selection of a contractor cannot be made principally on the basis of price because adequate specifications cannot be developed to advertise the requirement formally. In the negotiated process, technical considerations are usually primary, although both technical and cost factors are considered. Consideration is also given to other factors, including the offerors proposed methodology, the offerors' related experience, and the qualifications of the staff proposed.

2. The solicitation document used in negotiated procurement is referred to as a Request for Proposals (RFP). Bidders respond to an RFP by submitting both a technical and cost proposal. These proposals are evaluated in accordance with evaluation factors that are cited in the RFP. The award is made to the bidder whose combined technical and cost proposal is the most advantageous to the School Food Authority (SFA).

a. To ensure compliance with Federal and state procurement regulations, SFAs shall include the following certifications by bidders, as applicable, in the RFP.

i. Certificate of Independent Price Determination (All bidders),

ii. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions (All contracts > \$100,000-See §1517).

iii. Certification Regarding Lobbying (All contracts > \$100,000-See §1517),

iv. Disclosure of Lobbying Activities (as applicable).

3. If competitive negotiation is used for procurement, the following conditions must be met:

a. Proposals will be solicited from an adequate number of qualified sources to permit reasonable competition.

b. The RFPs shall be publicized, and reasonable requests by other sources to compete must be honored to the maximum extent possible.

c. The RFPs shall identify all significant evaluation factors including price or cost required and their relative importance.

d. The SFA will provide a mechanism for technical evaluation of the proposals received, to determine which

responsible bidders will be contacted for the purpose of further written and oral discussions, and selection for contract award.

e. The contract will be awarded to the responsible bidder whose proposal is most advantageous to the SFA when price and other factors are considered.

f. Unsuccessful offerors shall be notified promptly.

#### B. Noncompetitive Negotiation

1. Noncompetitive negotiation, a method of procurement used when no price quotations can be obtained, may be used when the following are true:

a. There exists a public emergency that will not permit a delay incident to competitive solicitation. If purchases are made in retail stores in emergency situations, itemized receipts that indicate item, cost per unit, quantity, total cost, date, and vendor must be obtained. Cash register tapes for purchases are insufficient purchase records.

b. Competition is determined to be inadequate after solicitation from a number of sources.

#### C. Purchasing from State Bid Contract

1. The Office of State Contracts establishes contracts for items sufficiently used by State agencies. All items on the State bid contract have been awarded under the Louisiana Public Bid Law. Public School Boards and other programs that are 100% government funded qualify to purchase from the State Bid Contract without going through the formal bid process. Non-profit entities can apply to State purchasing for authorization to use State contracts. Items may be purchased through a local vendor selling the exact same product at the award price. If a vendor from a State contract will not deliver to a SFA, according to R.S. 39:1710, political subdivisions can buy items on State contract from local vendors and even pay slightly more than the State contract price. However, the item must be precisely the same product (brand, model, etc.) that is on the State contract.

2. A copy of the State bid contracts may be obtained by sending a written request to the Director of Purchasing at the following address:

Director of Purchasing  
P.O. Box 94095

Baton Rouge, Louisiana 70804-9095

<http://www.state.la.us/osp/SiteIndex>

#### D. Cooperative (Piggyback) Purchasing

1. Purchasing may be conducted jointly with other political subdivisions or purchases may be made under a viable contract entered by another Louisiana public entity if the vendor consents. Federal regulations encourage cooperative purchasing. It is advisable for SFAs contemplating cooperative purchasing to enter into a contract defining the responsibilities of each party. There are several points that should be considered and included in the written plan such as specifications, billing, storage costs, delivery costs, and the dates of delivery prior to a SFA's participating in cooperative purchasing. (Requests for legal information regarding purchasing should be directed to the Attorney General's Office-Public Contracts Section, Telephone (225)342-7013.)

a. The certification requirements for debarment, suspension, ineligibility, voluntary exclusion and lobbying apply to procurement contracts totaling \$100,000 or more that are awarded through a cooperative Request for Proposal.

#### E. Purchasing from a Sole Source/Single Source

1. Several methods can be used when purchasing from a sole or single source. A SFA can use small purchase procedures by soliciting quotes when the aggregate amount is under \$10,000. Documentation of contracts must be maintained. Competitive sealed bids (formal advertising) must be used when the aggregate amount is over \$10,000. If the aggregate amount of a purchase exceeds \$10,000, a SFA must go through the regular bidding process even if only one source is known. If only one bid was received, documentation would be available from the single source. If no bids were received, the SFA must re-bid or consider cooperative (piggyback) purchasing, or State Bid Contract. Non-competitive negotiation may also be used if the other methods have failed. The decision to use non-competitive negotiation must be adequately justified in writing and available for audit and review.

2. Record Retention. All documentation shall be maintained for three years after submission of the final Claim for Reimbursement for the fiscal year to which they pertain. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed.

#### F. Cost Plus a Percentage of Cost

1. The cost plus a percentage of cost method of contracting is prohibited.

#### G. Cost Plus a Fixed Fee

1. The cost plus a fixed fee method of procurement is allowed. Under this system, the vendor quotes both the cost plus freight of the product and the fee that covers his warehousing, financing, delivering, and sales cost, plus profit. When using this method of procurement, the vendor is subject to audit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2186 (December 2001).

#### §1511. Diversion of Commodities for Processing

A. Federal and State procurement regulations must be followed when contracting for the processing of commodities. All contracts exceeding the sum of \$10,000 shall be advertised and awarded to the lowest responsible bidder. Purchases less than \$10,000 shall be made by obtaining no fewer than three telephone, facsimile or hand written quotations. Bids shall be accepted only from approved USDA commodity processors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2187 (December 2001).

#### §1513. Leasing

A. If a SFA leases space such as warehouse space, competitive negotiation with a request for proposals should be used. Prior written approval from the State agency must be obtained for multiple year leases. Contracts for multiple year leases should include a clause that prohibits the lessee from making any repairs that would result in capital improvements to the property in accordance with program regulations. The contract should also stipulate that a multiple year lease is contingent on continued funding of the National School Lunch and Breakfast Programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2187 (December 2001).

#### **§1515. Written Contract and Bond**

A. A written contract is required by procurement regulations. In addition, Circular A-110 and USDA 7 CFR Part 3016 and 3019 require the inclusion of specific contract provisions or conditions in procurement contracts.

B. To have a valid contract, one party must make an offer and the other party must accept the offer on the terms contained in the offer. Another requirement is that the offer must be definite on all essential terms. The contracts must identify the parties to the contract and must specify the subject matter, the time for performance, and the price. When a SFA sends out Invitations to Bid, it is asking vendors to bid certain estimated quantities of goods at a specific price. The SFA must then accept the offer for there to be a contract.

C. Contracts may be awarded in one of the following manners:

1. Some SFAs insert a contract clause in the Invitation to Bid. The Invitation to Bid also contains the contract provisions required by Federal regulations. To award the contract, the SFA designates the item(s) to be awarded, signs the contract clause, and mails a copy to the address listed by the vendor on the Invitation to Bid.

2. Other SFAs accept an offer by sending a bid award letter that lists the item(s) that have been awarded to the vendor. The Invitation to Bid must specify that the bid award letter, when mailed to the vendor at the address listed on the Invitation, will constitute acceptance of the offer. In addition, the Invitation to Bid must contain the contract provisions required by Federal regulations.

D. When any bid is accepted for the purchase of materials or supplies, the public entity purchasing the materials or supplies may require that a written contract be entered into between the successful bidder and the public entity; further the public entity may require that the successful bidder shall furnish good and solvent bond in an amount not less than one-half of the amount of the contract, for the faithful performance of his duties. Any such requirements shall be incorporated in the specifications and advertisement.

E. Contract Administration System. Each SFA shall maintain a contract administration system ensuring that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2188 (December 2001).

#### **§1517. Contract Provisions**

A. Certificate of Independent Price Determination

1. To ensure the School Food Authority's compliance with Federal and state procurement regulations regarding competition, the original signed Certificate of Independent Price Determination from the vendor whose offer was accepted shall be an integral part of the final procurement contract.

B. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. A sponsor (SFA) is prohibited from contracting with a company or individual that has been disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any Federal department or agency. This prohibition does not extend to contracts in existence at the time of the debarment/suspension or to most contracts under \$100,000. The prohibition applies to any contract for audit services regardless of the amount. Furthermore, the prohibition does not apply to proposed debarments.

a. Any reference to "lower tier covered transactions" means the initial procurement contract with a vendor/contractor and the first tier subcontract under that procurement contract.

b. A vendor/contractor receiving the final award resulting from a cooperative purchase Request for Proposal that equals or exceeds the \$100,000 threshold shall meet all requirements regarding debarment, suspension, ineligibility and voluntary exclusion.

c. Suspension, debarment, proposed for debarment, and voluntary exclusion are Government-wide; therefore, an exclusionary action under one Federal program applies under all Federal programs.

2. To ensure that the SFA does not enter into a contract with a debarred or suspended company or individual, each SFA must require that each responsive bidder include a certification statement with any procurement contract bid totaling \$100,000 or more, or for audit services regardless of the amount. By signing the certification statement, the bidder certifies that neither it nor any of its principals (e.g. key employees) or any first tier procurement subcontractor of the bidder, have been proposed for debarment, debarred, suspended or voluntarily excluded by a Federal agency or program. It is the responsibility of each SFA to require the certification as part of a responsive bid.

C. Lobbying Restrictions.

1. An SFA is prohibited from using Federal funds to pay for lobbying activities to influence the award of any Federal contract, grant, loan or cooperative agreement or any renewal, extension, amendment or modification thereof.

2. Certification and disclosure statements regarding lobbying activities are required of all SFA's and any subcontractors at all tiers, that receive more than \$100,000 in Federal funds. The SFA must sign and submit the certification statement to the State agency as a part of its permanent participation agreement. The Disclosure of Lobbying Activities form is required to be submitted to the State agency whenever the SFA or a subcontractor has used non-federal funds to pay persons external to their organization for activities which would have been prohibited if Federal funds had been used.

D. Breach of Contract Terms/Remedies/Sanctions

1. All contracts other than small purchases shall contain provisions that allow for administrative, contractual, or legal remedies in instances in which contractors violate or breach contract terms and that provide for such sanctions and penalties as may be appropriate.

E. Equal Low Bids

1. Contracts shall be awarded in the following order of priority when two or more low bids are equal in all respects:

- a. small business concerns that are also labor surplus area concerns;
- b. other small business concerns;
- c. other business concerns that are also labor surplus area concerns; and
- d. other business concerns

2. To determine whether an area is a labor surplus area, a SFA should contact the Department of Employment and Training (Department of Labor) Research & Statistics at (225) 342-3200. This information is found in Area Trends in Employment and Unemployment, a monthly publication provided by the United States Department of Labor-Employment and Training Administration.

3. If two or more bidders still remain equally eligible after application of the paragraph above, the award shall be made by a drawing by lot limited to those bidders. If time permits, the bidders involved shall be given an opportunity to attend the drawing. The drawing shall be witnessed by at least three persons, and the contract file shall contain the names and addresses of the witnesses and the person supervising the drawing.

4. When an award is to be made by using the priorities under this provision, the contracting officer shall include a written agreement in the contract that the contractor will perform, or cause to be performed, the contract in accordance with the circumstances justifying the priority used to break the tie or select bids for a drawing by lot.

#### D. Multi-Year Contract

1. The multi-year method of contracting is used when a special production of definite quantities of supplies for more than one fiscal period is necessary to meet needs most effectively, but funds are available only for the initial fiscal period. A multi-year contract is also appropriate when it is in the best interest of the SFA to obtain uninterrupted services extending over more than one fiscal period, when the performance of such services involves high start-up costs, or when a changeover of service contractors involves high phase in/phase out costs during a transition period.

2. When a multi-year contract is used by the SFA, the contract shall include a clause stating that the multi-year contract will be cancelled if funds are not appropriated or otherwise made available to support the continuation of performance in any fiscal period following the first year.

#### E. Extending a Contract

1. Extension of a contract into the next bid period can be granted only under special circumstances. Since extending a bid period is a modification of the contract, the SFA must perform some form of cost or price analysis. Because circumstances that would justify a bid extension are unlikely, it is required that the SFA contact the State agency for permission should a need for a contract extension arise.

#### F. Energy Conservation Provision

1. Contracts will recognize mandatory standards and policies relating to energy efficiency contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act P.L. 94-163.

#### G. Termination Provisions for Contracts Over \$10,000

1. All contracts over \$10,000 must contain suitable provisions for termination by the grantee including the

manner that the termination will be effected and the basis for settlement. In addition, such contracts shall describe the conditions under which the contract may be terminated for default because of circumstances beyond the control of the contractor.

#### H. Equal Opportunity Provision for Contracts Over \$10,000

1. All contracts over \$10,000 must contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations 40 CFR Part 60.

#### I. Clean Air and Water Provisions for Contracts Over \$100,000

1. All contracts over \$100,000 shall contain a provision that requires compliance with all applicable standards, orders, or requirements issued under §306 of the Clean Air Act 42 USC 1857(h), §508 of the Clean Water Act 33 USC 1368, Executive Order 11738, and Environmental Protection Agency regulations 40 CFR Part 15 that prohibit the use under nonexempt Federal contracts, grants, or loans of facilities included on the EPA list of Violating Facilities. The provision shall require reporting of violations to USDA and to the USEPA Assistant Administrator for Enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2188 (December 2001).

#### §1519. Audit Provision

A. All negotiated contracts, except those awarded by small purchase procedures, shall include a provision to the effect that the SFA, the State agency, the USDA, the Comptroller General of the United States, or any duly authorized representatives shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transactions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2189 (December 2001).

#### §1521. Buy American Provision

A. Public Law 100-237 directs the Secretary of Agriculture to require that whenever possible the recipient agencies purchase food products that are produced in the United States. Public Law 100-237 defines American food products as products being grown in America or, in the case of processing or packaging in America, products that contain at least 51 percent of domestic product. Exceptions to the "Buy American" requirement are allowed in the following circumstances listed below:

1. The recipients have unusual or ethnic food preferences that can be met only through purchases of products not produced in the United States.

2. The products are not produced or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality.

3. The cost of the domestic produced food products is significantly higher than the cost of the similar foreign products.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2189 (December 2001).

**§1523. Certified Economically Disadvantaged Businesses (LA Economic Disadvantaged Business Act R. S. 51:1751)**

A. Affirmative steps must be taken to utilize small businesses and minority-owned businesses by

1. including small and minority businesses on solicitation lists;
2. assuring that small and minority businesses are solicited whenever they are potential sources;
3. dividing total requirements into smaller tasks or quantities when economically feasible so as to permit maximum small and minority business participation; and
4. establishing delivery schedules that will encourage participation by small and minority businesses when requirement permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2190 (December 2001).

**§1525. Records**

A. The SFA shall maintain procurement records sufficient to detail the significant history of a procurement such as, but not limited to the following:

1. rationale for the method of procurement;
2. selection of contract type;
3. contractor selection or rejection;
4. basis for the cost of or price in negotiated contracts; and
5. all procurement records shall be maintained for three years after submission of the final Claim for Reimbursement for the fiscal year to which they pertain. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2190 (December 2001).

**§1527. Code of Conduct**

A. Each SFA must have a written code of conduct relative to procurement to comply with the Louisiana Code of Governmental Ethics (R.S. 42:1101-1169) and other State and Federal regulations.

1. Federal regulations require that each SFA have a written Procurement Plan that contains the Code of Conduct and describes how purchases will be handled in a school system. The Procurement Plan can be basic or it can be a very detailed sample procurement plan can be found in §1735.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2190 (December 2001).

**§1529. School Employees Purchasing Items at Bid Price**

A. The practice of school system employees buying items from vendors at the bid price is prohibited. Federal regulations require a code of conduct that states that “the

recipient’s officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors.” When a person purchases at the school bid price or at another discounted price, that person is actually accepting from the vendor the cash difference between the bid price and what one would have to pay for the item in the retail market. Even if the vendor were to charge the retail price, the person would still be receiving the convenience of a personal delivery and therefore would be accepting a favor from the vendor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2190 (December 2001).

**§1531. Receiving Gifts**

A. The practice of school system employees receiving gifts from vendors is not allowed. It is in conflict with State and Federal procurement regulations dealing with a code of conduct or code of ethics. No SFA employee may accept gratuities, favors or anything of monetary value from companies with which they currently, or could potentially, do business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2190 (December 2001).

**§1533. Instructions to Vendor**

A. Drop Deliveries

1. If a low bid is received from a vendor who can make a drop delivery, but the instructions to vendors do not mention the acceptability of drop delivery, the bid from the vendor who can make a drop shipment or delivery at a lower price is actually a nonresponsive bid that must be rejected. Regulations specify that the invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to respond properly to the invitation. It is possible that one of the other bidders may have bid an even lower price on a drop shipment had the vendor been offered the opportunity. If the SFA will accept a drop shipment, that specification it must be clearly stated in the invitation to bid. If deliveries are to be made to schools, a list of the schools and their addresses should be included so that the bidder may calculate transportation costs.

B. Specifications

1. A specification is a statement that contains a detailed description or enumerates particulars of a product. The characteristics of a specification include the name of the product, Federal grade, size information for container and product, unit on which price will be based, quality indicators, packaging procedures and type of package, and test or inspection procedures.

2. When a public SFA desires to purchase technical equipment, apparatus, machinery, materials, or supplies of a certain type and such purchases are clearly in the public interest, the SFA may specify a particular brand, make, or manufacturer in the specifications let out for public bid. If a particular brand, make or manufacturer is specified, the model or catalog number shall be specified. The brand name or equal description may be used as a means of defining a quality standard. Wherever in specifications the name of a



certain brand, make, manufacturer, or definite specification is utilized, the specifications shall state clearly that they are used only to denote the quality standard of product desired and that they do not restrict bidders to the specific brand, make, manufacturer, or specification named; that they are used only to set forth and convey to prospective bidders the general style, type, character, and quality of product desired; and that equivalent products will be acceptable. Specifications must state clearly when and where deliveries are to be made. (See §1535 for sample specifications.)

#### C. Index Pricing

1. The bid specification may contemplate a fixed escalation or de-escalation in accordance with the United States Bureau of Labor Statistic's Consumer Price Index or Wholesale Price Index. Bids based on specifications subject to a recognized escalation index shall be legal and valid. When using such "index pricing," the competition between bidders is based solely on the "margin" over index price that the bidder offers.

#### D. Child Nutrition Label (CN) or Certified Product Formulation Statement

1. Each SFA should be consistent in information sent to vendors. If a SFA will accept only CN labeled processed items or will accept either a CN labeled product or a signed and dated Certified Product Formulation Statement, this information should be stated in the instructions to the vendors. Any processed food product used in school food service programs that provides part of a meal component that does not have a yield listed in the Food Buying Guide must have either a Child Nutrition (CN) label or a signed and dated Certified Product Formulation Statement. The CN label or Certified Product Formulation Statement identifies the contribution of a product toward meeting the meal pattern requirements. (Refer to Meal Service.)

#### E. Minimum Drained Weights

1. It is necessary to specify minimum drained weights in specifications for canned fruits and vegetables. This information helps to ensure the minimum acceptable amount of product per can.

#### F. Generic Terminology

1. When writing a specification for a product without specifying brand name, the SFA shall use the generic name that is usually listed under the trade name. A brief description of the product can also be included: for example, some generic names of breakfast cereals are

- a. toasted oat cereal, donut shaped;
- b. puffed wheat cereal, sugar coated; and
- c. cornflakes, sugar coated.

#### G. Bread Specifications

1. If a bread item has a standard of identity, it is still necessary to specify enriched. The U.S. Food and Drug Administration has standards of identity for nonenriched bread products as well as for the enriched products. In order to be sure of receiving enriched products, the SFA must specify enriched.

#### H. Grade Standards

1. When a bid specifies U.S. Grade A Fancy or U.S. Grade B Choice, it is telling the bidder that a Federally graded product is wanted. If a vendor bids an item that is only vendor grade, the bid is a nonresponsive bid. If the bid says Fancy or Choice or omits any mention of quality desired, bids may be received on undesirable products. If the

SFA wishes to designate a level of quality without requiring Federal grading, "U.S. Grade A or equal" can be included in specifications. "Grade A" or "Grade B" without "U.S." preceding may be written in specifications. Federal regulations require any product that has one of the grade names on the label, without "U.S." to be of equal quality, even though there is no official grade. So in essence, Grade A has the same meaning as U.S. Grade A without requiring Federal grading. Instructions to vendors may include the statement that, when a U.S. grade is mentioned in the specifications for fruits and vegetables, Federal grading is not required; however, the items bid must meet or exceed the USDA grading requirements for the item and grade specified.

#### I. Approved Brands

1. It is acceptable to specify a list of approved brands as part of a specification. Many school systems test and approve brands that meet their standards and student preferences. The object of testing must not be to determine the best product on the market, but rather to determine which products are of acceptable quality to meet the needs of the program. Product testing procedures must provide for an objective evaluation of tested products, and documentation of test results must be maintained on file by the SFA. The SFA may list acceptable or approved brands on the invitation for bids. The words or equal must be included after listing the approved brands. If a brand is specified, the specification must clearly set forth and convey to prospective bidders the general style, type, character and quality of the brand desired and a statement notifying the bidders that equivalent products will be acceptable.

#### J. Standardized Specifications for a Geographical Area

1. Developing a manual of standardized specifications for several SFAs within a geographical area is advantageous to the vendor and the buyer.

2. Advantages to the vendor are as follows:

- a. reduction in the vendor's inventory;
- b. reduction of the vendor's dilemma of keeping up with numerous LEA specifications and item numbering systems; and
- c. if the vendor can reduce duplication of stock or inventory and can increase volume buying of agreed upon items, he should be able to negotiate lower prices.

3. Advantages to the Buyer are as follows:

- a. lowering of cost;
- b. reduction in work for each supervisor; and
- c. pooling of resources, resulting in a stronger purchasing system.

#### K. Estimating Quantities

1. Quantity estimates should be given for items required during a bid period.

a. Estimating quantities may help obtain a lower price. If the vendor knows the exact quantities needed, he may be able to offer a better price. The vendor bidding on unknown quantities is in a weak position for negotiation with his supplier. With good management and active teamwork from managers, each SFA should be able to forecast usage accurately. Some supervisors hesitate to estimate quantities because of the uncertainty of commodities. Many systems utilize short bid periods for certain classes of items, because that procedure gives time to predict commodities and adjust the amounts required. If the

SFA overforecasts needs, use of not only storage space either centrally or at the school level but also cycle menus will allow use of extra amounts. Again, the use of short bid periods helps to adjust surplus inventory quickly. If the SFA under-forecasts, , it may be necessary to solicit new price quotations or use sealed bids to get permission to extend the contract. One way of allowing some flexibility is to insert a clause in the general instructions to vendors giving some tolerance range in estimating amounts.

b. Estimating quantities could help to receive deliveries: for example, if several SFAs go out on bid at the same time, and one SFA estimates usage of fish portions at 50 cases, and the other SFA gets only price quotes with no estimate of quantities, the SFA that has contracted for a definite quantity will be more assured of delivery.

c. A SFA may not have a legal remedy if quantities have not been stated. In such a case, there actually is no definite contract.

#### L. Contract Award

##### 1. Awarding by Item, Class, or Total

a. Whether it is more advantageous to award bids by item, class of items, or total sum will depend on a combination of factors including:

i. The size of the school system and its location: i.e., is it rural or is it located in or near a metropolitan area; is the SFA large enough that vendors could profitably handle only a portion of the business, or would they need all of the business to make delivery worthwhile?

ii. The capabilities of the vendors in the area: for example, are there several full-service vendors in the area or are the vendors limited in the lines of merchandise they carry? Do some vendors in the area handle only red meats; others hams and sausage; and others chicken, fish and prepared items? If so, it would not be to the SFA's advantage to have an all or nothing bid for chilled and frozen meats.

iii. The SFA's capabilities for storing and transporting deliveries: for example, if a delivery truck and a central warehouse with a refrigerator and a freezer are available and a drop shipment can be accepted, the SFA may want to award the bid by item even if the SFA is a small, rural school system.

b. All of the options and the estimated cost for each option: the option that provides the most benefits to the school system for the least cost should be chosen.

#### M. Awarding by Total

1. In order to evaluate properly a bid or price quotation that will be awarded by total to one vendor instead of by item to multiple vendors, the SFA must estimate the quantities that will be purchased. Each estimate is then multiplied by the bid price and an estimated total cost is obtained for each bid. The vendor with the lowest estimated total cost would be awarded the contract. This procedure for evaluating bids and quotations should be used for all contracts that are awarded by total to one vendor such as milk bids, bread bids, and fresh produce quotations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2190 (December 2001).

## Chapter 17. Commodities

### §1701. General

A. The United States Department of Agriculture's (USDA) Food Distribution Program (FDP) is a multi-purpose program designed to improve the nutritional quality of the diets of people who participate in the program. In addition, it supports agriculture through price support and surplus removal programs. The foods are made available to the Louisiana Department of Agriculture and Forestry (LDAF) for distribution to eligible outlets such as School Food Authorities (SFAs).

B. The LDAF is required to execute agreements with each SFA. A copy of the approved agreement must be maintained on file by each SFA. The provisions in this agreement must be fulfilled at each school. USDA regulations specify that all records and documents pertaining to the FDP must be retained for a period of three years after submission of the final Claim for Reimbursement for the fiscal year to which they pertain. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2192 (December 2001).

### §1703. Allocations

A. SFAs are eligible for a certain dollar level of USDA commodity assistance based on the number of lunches served multiplied by the mandated rate of assistance. This commodity assistance is referred to as planned assistance level (PAL). USDA commodities that are offered to SFAs against the dollar amount of their PAL are considered entitlement foods. Other foods that are offered to SFAs, which are not offered against the PAL, are considered bonus commodities. The SFA may refuse up to 100 percent of the USDA commodities offered to their program through an offer/acceptance system. Once an SFA accepts a commodity through the survey the SFA must accept or find a suitable same type user as approved by USDA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2192 (December 2001).

### §1705. Use and Sale of Commodities

A. The USDA expects participating schools and institutions to use any donated food or processed end product containing USDA commodities, so far as practical, in the preparation of required food items or side dishes on reimbursable lunches. In addition, USDA commodities may be used in the preparation of meals served under any other school food service meal activity such as School Breakfast Program, sale of extra servings, and meals and snacks in Residential Child Care Institutions.

B. Federal regulations also authorize the use of USDA commodities in the following school activities:

1. Training students in home economics and the Nutrition Education and Training (NET) Program.

2. Workshops, demonstrations, and tests relating to the utilization of USDA commodities by the SFA. Records must be maintained documenting that prior written approval has been received from the LDAF.

C. Records of the kinds and quantities of USDA commodities that are used must be maintained. These USDA commodities shall not be replaced by the LDAF.

D. USDA commodities cannot be used in the preparation of any food item for use in catering/special functions except for the following: in the preparation and sale of foods for any school related functions at which the primary beneficiaries of the food are the students themselves.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2192 (December 2001).

#### **§1707. Further Processing of Commodities**

A. Federal and State procurement regulations must be followed when contracting for the processing of commodities. All contracts exceeding the sum of \$10,000 shall be advertised and awarded to the lowest responsible bidder. Purchases less than \$10,000 shall be made by obtaining no fewer than three telephone, facsimile, or hand written quotations. Bids shall be accepted from only approved or pre-approved USDA commodity processors as determined by the Louisiana Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2193 (December 2001).

#### **§1709. Care and Storage of Commodities**

A. The SFA is responsible for USDA commodities after taking possession of them. Possession includes transfers within a warehouse from the State account to the account of the SFA. Each SFA must take prudent and reasonable care of USDA commodities as follows:

##### **1. Receiving Commodities**

a. Each delivery of food must be checked for possible shortages and damage before the foods are accepted. The delivery date must be recorded on all commodity items. Refrigerated products must be examined to ensure that the temperature of the product is adequate and that they are in good condition.

b. Canned foods must be examined to determine whether there are any damaged, disfigured, or discolored cases or cans, which might indicate spoilage or deterioration.

c. Foods subject to insect infestation must be thoroughly inspected.

d. Food found to be out of condition must be separated from other food. The SFA must

i. indicate on the receiving document the status of the out-of-condition food;

ii. contact the local sanitarian to inspect and determine the disposition of the food; and

iii. submit a Claim Determination Form to the Food Distribution Division to report the loss of USDA commodities. Any shortages found during the delivery check should be noted on the receiving documents. The receiving documents must be signed by the driver to confirm the differences due to shortages or out-of-condition foods.

##### **2. Inventory Requirements**

a. A perpetual inventory record must be maintained at the site for all foods in stock.

b. A physical inventory of all USDA commodities on hand must be taken on the last working day of the month and submitted to LDAF by the 10th of each month.

c. Food should be ordered in quantities that can be properly stored and utilized without waste. An inventory of no more than a six-month supply of commodities should be maintained except in unusual circumstances.

##### **3. Insect and Rodent Control**

a. Adequate facilities for the proper storage of USDA commodities must be provided.

b. USDA commodities must be protected from insect and rodent infestation. There must be no external openings in the structure of the buildings in which foods are stored that would allow rodent and insect infestation.

##### **4. Cooler/Freezer Checks**

a. Cooler and freezer temperatures must be checked at least every other day, even during vacation and holiday periods. The only allowable exception is when it is not possible to monitor on weekends, in which case temperature checks should be made late Friday afternoon and early Monday morning. Automated alarm systems may be used if they produce written records of temperatures and dates upon request.

b. When automated alarm systems are not used, a log containing the following information must be maintained:

i. the exact date of the check;

ii. the exact time of the check;

iii. the recorded temperature; and

iv. the full original signature and title of the person conducting the check.

##### **5. Theft Control**

a. Facilities used to store USDA commodities must be secure. Freezers/coolers and other storage areas should be locked separately.

##### **6. Losses of USDA Commodities including Commodity Processed Items**

a. All losses of USDA commodities must be reported to the Food Distribution Division on a Claim Determination Form by the 25th of the month following the month of the loss.

b. If the loss is a result of theft, the local police must investigate and a copy of the police report must accompany the Claim Determination Form.

c. If the loss is due to infestation, spoilage or damage, the local health unit should be contacted for inspection of the commodity and a copy of the sanitarian's report should be attached to the Claim Determination Form.

d. Losses involving refrigeration malfunctions must be accompanied by the temperature log and repair or service bill/invoice or other documentation that proves no negligence was involved.

e. If it is determined that the loss is due to negligence by the school or that the loss has not been properly documented, the sponsoring agency will be held liable for the loss.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2193 (December 2001).

### §1711. Questions

A. Questions concerning commodities can be answered by writing the Louisiana Department of Agriculture and Forestry; P.O. Box 3481; Baton Rouge, Louisiana 70821-3481; or calling (225) 922-1255, or by visiting their web site: [www.ldaf.state.la.us](http://www.ldaf.state.la.us).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2194 (December 2001).

## Chapter 19. Sanitation

### §1901. Purpose

A. The following are guidelines to aid in the purchasing, receiving, storing, preparing, cooking, holding, serving, cooling and reheating of safe food for use in the Child Nutrition Programs. All school food service programs shall comply with the standards as outlined in the Louisiana Sanitary Code. A copy of the Code can be obtained by writing to the following: Sanitarian Services; 325 Loyola Avenue, Room 210; Post Office Box 00030; New Orleans, Louisiana 70100.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2194 (December 2001).

### §1903. Purchasing

A. Obtaining wholesome, safe foods to meet the menu requirements is the goal of purchasing. Vendors play an important part of this step. Therefore, suppliers must meet Federal and State health standards. Also delivery trucks should have adequate freezer units and refrigeration units. In addition, food safety standards should be a part of the purchase specification agreements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2194 (December 2001).

### §1905. Receiving

A. The receiving area should be clean, well lit, and pest-free.

B. Orders should be inspected immediately for dented/damaged supplies and for expiration dates.

C. Frozen foods shall be inspected for signs of thawing and refreezing.

D. Delivery vehicles should be checked for signs of contamination, such as dirt and melted ice as well as infestation by pests.

E. Thermometers shall be used to measure temperatures of refrigerated and frozen foods.

F. Acceptable goods should be logged in upon delivery.

G. Clean carts should be used for transporting goods.

H. All items should be marked for storage with the date of arrival.

I. Staples, nails, and other fasteners should be removed before goods are unpacked.

J. Items should be moved to storage quickly. They shall not be left on the dock or in hallways.

K. Unacceptable goods shall be rejected.

L. Home-canned foods should never be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2194 (December 2001).

### §1907. Storing

A. The First In, First Out (FIFO) method shall be used.

B. All items shall be dated upon receipt.

C. All leftovers shall be dated when stored after preparation.

D. Temperatures in freezers, refrigerators, and milk coolers shall be recorded regularly. It is recommended that temperatures be measured and recorded daily. However, at minimum, temperatures must be obtained and recorded every other day including upon the opening of the kitchen Monday morning and upon the closing of the kitchen on Friday afternoon. Temperatures must be monitored and recorded during holidays and summer breaks.

E. Refrigerated temperatures shall be below 41° F. Freezer temperatures shall be 0° F or lower.

F. Unauthorized persons should not be admitted to the storage area.

G. All spills and leaks should be cleaned up and empty packaging material shall be removed immediately.

H. Cooked and ready-to-eat foods shall be covered and stored above raw foods to avoid cross-contamination.

I. The shelves in refrigerated storage shall never be lined.

J. Thawed food shall never be refrozen until it has been thoroughly cooked.

K. Dried fruits and vegetables, cereals, sugar, flour, and rice shall be kept dry.

L. Dry foods should be stored at least six inches off the floor and out of sunlight.

M. Dry storage temperature shall be between 50° to 70° F.

N. Dry storage must be well-ventilated and pest-free.

O. Cleaning supplies and chemicals shall be stored as follows:

1. in locked rooms or cabinets away from food preparation and storage areas;

2. in original containers; empty chemical containers shall never be used to store food; chemicals shall never be stored in food containers; and

3. near material safety data sheets (MSDS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2194 (December 2001).

### §1909. Preparing

A. Food should be prevented from spending more than four hours in the temperature danger zone of 41° to 140° F. This period includes the time spent in receiving, storing, preparing, cooking, holding, serving, cooling, and reheating.

B. Food should be thawed by these four methods only:

1. in a refrigerator at a temperature not to exceed 41° F; raw foods shall be stored on the lowest shelf to prevent them from dripping or splashing on other foods;

2. under running drinkable water at a temperature of 70° F or lower; the product should be thawed within two hours; this method should not be used for turkeys and large cuts of meat;

3. as part of the cooking process;

4. in a microwave; this method shall be used only when the food will be transferred immediately to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave. (This method is not effective on large items.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2194 (December 2001).

#### **§1911. Cooking**

A. An internal temperature of 165° F-170° F for foods to be held for serving shall be reached.

B. The internal temperature in the thickest part of the food item without touching the bone should be measured.

C. Overloading cooking surfaces and ovens should be avoided, as the unit's temperature may drop or foods may spill onto each other.

D. The temperature of cooking equipment should be allowed to return to the required temperatures between batches.

E. The cooking process should never be interrupted.

F. Cutting boards, knives, and other food contact surfaces shall be washed, rinsed, and sanitized after each contact with a potentially hazardous food.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2195 (December 2001).

#### **§1913. Holding**

A. Hot and cold food should have the temperature checked every two hours and recorded in a log. The temperature should be less than 41° F for a cold item and greater than 140° F for a hot item.

B. Warmers, steam tables or other hot-holding equipment should never be used to cook or reheat food. This equipment should be used only to keep food hot.

C. Foods should be stirred at regular intervals to ensure even heating.

D. Fresh food should never be added to a serving pan containing foods that have already been out for service.

E. Any food held in the "temperature danger zone" for more than four hours should be discarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2195 (December 2001).

#### **§1915. Serving**

A. For hot food a minimum temperature of 140° F shall be maintained during the service period. For cold food, the temperature shall not exceed 41° F during the service period.

B. The food contact areas of cups, glasses, plates, and tableware shall not be touched once cleaned for service.

C. Hands shall be washed for at least 20 seconds with soap and warm water before serving food.

D. Plastic or metal tongs or scoops should be used to obtain ice, as glass may break.

E. Gloves shall be discarded whenever they touch an unsanitary surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2196 (December 2001).

#### **§1917. Cooling**

A. Foods must be cooled to 41° F or lower in fewer than four hours total after cooking or hot holding.

B. Shallow pans should be used to cool food. Thick foods - such as chili, stew, and jambalaya - should be placed in pans with a product depth of no more than two inches deep. Thinner liquids - such as broth and soup - may be placed in pans with a product depth of no more than three inches deep.

C. Foods should be labeled with the date and time they were prepared.

D. Pans should be spaced in the cooler to allow for adequate air circulation and to hasten cooling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2195 (December 2001).

#### **§1919. Reheating**

A. Previously cooked food should be reheated to an internal temperature of at least 165° F as soon as possible, not to exceed two hours.

B. Food should be reheated only once.

C. A leftover batch of food should never be mixed with a fresh batch of food.

D. Questionable food should never be served. (If in doubt, throw it out.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2195 (December 2001).

#### **§1921. Use of Food Waste**

A. The Louisiana Sanitary Code prohibits the use of food waste, either cooked or raw, as feed for swine. If a SFA or school allows any individual/agency to dispose of food waste, a statement indicating its use must be on file at the school site. This statement must be signed by the individual/agency and must indicate that the food waste will not be fed to swine before anyone is allowed to remove the food waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2195 (December 2001).

#### **§1923. Sample Plates**

A. A sample plate of all foods served, with the exception of prepackaged items, shall be covered and retained for at least 48 hours at each school site, including the satellite school.

B. The sample plate shall be kept refrigerated at 41° F or below and shall not be frozen. If there are no means of refrigeration at the site of service, the sample plate must be retained at the central kitchen. If there is refrigeration at the satellite site, the sample plate must be refrigerated at that site.

C. The sample plate shall be taken before meal service begins.

D. Each sample shall be taken with a different utensil that has been cleaned and sanitized.

E. The recommended size of the sample(s) is ½ cup (200gm).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2195 (December 2001).

### **§1925. Hazard Analysis Critical Control Point (HACCP)**

A. HACCP provides a system for monitoring potentially hazardous foods. Hazards may include micro-organisms, chemicals, and physical objects. A critical control point (CCP) is an action in which a preventative or control measure can be taken to eliminate a hazard, prevent a hazard, or to lessen the risk that a hazard will occur.

B. A written HACCP plan is recommended for all recipes involving potentially hazardous food. The HACCP plan should be developed and written by an individual who has successfully completed training in the application of HACCP principles. SFAs operating a warehouse that accepts delivery for later distribution to individual schools or that is involved in interstate commerce should develop a HACCP plan for all hazardous food.

C. Although a written HACCP plan is recommended for all recipes involving potentially hazardous food, according to Federal Regulation 21 CFR, Part 123, it is mandatory that all food service programs with central warehouses develop and implement a HACCP plan for seafood or seafood products.

D. The seven steps to develop a HACCP plan are listed below.

#### 1. Assessing Hazards

a. Identification of potentially hazardous foods: menus and recipes shall be reviewed, as hazardous food may be served alone or as an ingredient in a recipe.

b. Flow of food: the flow of food is the path food travels in the school or SFA (receiving, storing, preparing, cooking, holding, serving cooling, reheating).

c. Identification of hazards: what hazards can occur during the flow of food should be foreseen.

d. Estimation of risks: several factors can increase the chance of foodborne illnesses; therefore, the following should be studied: the type of customers being served, as children and the elderly are more susceptible to foodborne illnesses; the reputation of suppliers; the use of proper equipment for preparing and serving food; and the proper training of employees on food safety.

#### 2. Identifying CCPs

a. CCPs necessary to keep each recipe safe should be identified. These points should be considered during receiving, cooking, holding, chilling and/or reheating.

#### 3. Setting up procedures and standards for CCPs

a. The standards and procedures include times, temperatures, or other requirements that must be met to keep food safe. Each standard should be

i. measurable;

ii. based on facts from research data, vendors' advice, food regulations and/or experience;

iii. correct for the recipe when taking into consideration room temperature, number of employees, and amount to prepare; and

iv. specific

b. Standards to prevent contamination at other points in the recipe and the flow of food should be documented.

#### 4. Monitoring CCPs

a. This process is a check to see whether the standards that were developed are being met.

#### 5. Taking corrective action

a. When a standard is not being met for a CCP, corrective action should be taken immediately. Such corrective action may be continuing to heat a food item if the end cooking temperature has not been reached or discarding a food item.

#### 6. Setting up a record-keeping system

a. Records should be easy and simple for employees to use. Such records may include blank forms for temperatures hung on equipment; keeping recipes near work areas so employees can use them quickly; or notebooks so employees can write the corrective action(s).

#### 7. Verifying that the system is working

a. After the written system has been developed, the flow of food should be followed to confirm that the system is correct. The following processes included in the system should be verified:

i. procedures have been listed in order;

ii. all hazards have been identified and addressed;

iii. CCPs have been selected;

iv. standards have been established;

v. monitoring procedures and schedules have been selected;

vi. corrective actions have been developed;

vii. procedures and forms for recording information have been established;

viii. procedures to verify that monitoring is conducted properly have been established;

ix. any flaws or omissions in procedures have been noted;

x. monitoring equipment such as thermometers has been calibrated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2196 (December 2001).

### **§1927. General Rules**

A. The layout of the kitchen must not cause or allow food to be contaminated during preparation.

B. Good sanitation techniques to avoid pests shall be followed.

C. To avoid health and safety hazards, only authorized school food service personnel shall be allowed in the food preparation and serving areas.

D. All foods should be kept covered while in the refrigerator.

E. When food is sent to another location, the temperature of each food item must be taken and recorded before its leaving the central kitchen and upon its arrival at the satellite school. When transporting food to a satellite school, the food must be protected from contamination. The temperature shall remain less than 41° F for a cold item and greater than 140° F for a hot item.

F. The re-service of unopened milk is prohibited. Milk served to children or adults at breakfast, lunch, snack or as

an extra sales item cannot be used again as part of another meal. Milk returned from a student cannot be used in cooking.

G. Handwashing facilities shall be available to school food service employees. Hands must be washed with warm water and liquid soap when reporting to work and after the following: handling raw food; touching their hair, face, or body; sneezing or coughing; smoking and chewing tobacco or gum; eating or drinking; cleaning; taking out the garbage; or touching anything that may contaminate their hands.

H. Plastic gloves are recommended; however, proper handwashing techniques must be followed when handling food. (See §2115C.) If gloves are used, they should be used for one task only and then discarded. Gloves must be treated as single use utensils.

I. Uniforms, aprons or smocks, hair restraints, hose or socks, and low-heeled enclosed shoes that provide adequate protection must be worn by all school food service employees.

J. Fingernail polish and artificial nails are prohibited.

K. Jewelry is restricted to plain wedding bands, stud earrings, and non-dangling watches.

L. Coats, shoes, purses, and other wearing apparel of adult and student school food service personnel should be stored in a closet or locker, not in the kitchen, storeroom, or dining area.

M. Employees with infected cuts or burns shall not prepare food or handle equipment that will come in contact with food. If these employees remain on duty, their infected areas must be properly covered.

N. Handwashing before mealtime shall be available to all students and adults at school. Paper towels and liquid soap are needed.

O. Tables shall be washed and sanitized before and after meal service.

P. An appropriate accurate thermometer shall be kept in the refrigerator and freezer at all times.

Q. All surfaces, including walls, should have washable surfaces.

R. Protected covering over lights is needed.

S. Waste receptacles need covers in the kitchen and in the bathrooms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2196 (December 2001).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2196 (December 2001).

## **Chapter 21. Civil Rights - Handling Complaints**

### **§2101. Responsibilities of the SFA**

A. It is the responsibility of the SFA to assure that CNP benefits are made available and provided to all eligible individuals without discrimination. Federal (USDA) and State regulations outline the following responsibilities.

1. All forms of communication and printed program materials information must include the following:

a. the statement, "In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color,

national origin, sex, age, or disability. To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer."

b. the address indicating where a complaint may be filed:

USDA, Director, Office of Civil Rights;  
Room 326-W, Whitten Building;  
1400 Independence Avenue SW;  
Washington, DC 20250-9410.

2. Parents or guardians of children, as well as local minority and grassroots organizations, must be informed of the availability of program benefits and services, the nondiscrimination policy, and all significant changes in existing requirements that pertain to program eligibility and benefits. This dissemination of the information may be accomplished through a the news release, letters to parents, the income scale, and the application form.

3. The nondiscrimination poster, which must be displayed in a prominent place in each school, must be visible to all. (Refer to §2309 B.)

4. Information about program requirements and the procedures for filing a complaint must be made available to the public and to participants, upon request, and in foreign languages as needed.

5. "In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer."

6. The SFA must process the complaint immediately upon receipt and must also notify the State Agency of the complaint.

7. The SFA may develop a complaint form, but the use of the form shall not be a prerequisite for the acceptance of the complaint. The prototype complaint form found in this chapter (§2109.A.) may be used.

8. The SFA is required to maintain on file the actual number of students applying for free and reduced price meals, for three years after submission of the final claim for reimbursement for the fiscal year to which they pertain. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed.

B. Compliance with civil rights regulations, as well as with all other program regulations, will be verified during on-site administrative reviews, audits, or other Federal or State monitoring visits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2197 (December 2001).

### **§2103. Handling Complaints**

A. Systems must accept and process any written or oral complaint, even anonymous complaints, alleging

discrimination on the basis of race, color, national origin, sex, age, or disability immediately upon receipt.

1. School systems must notify the State Agency of the complaint.

2. The school system may develop a complaint form, but the use of the form shall not be a prerequisite for the acceptance of a complaint.

B. Any person alleging discrimination on the basis of race, color, national origin, sex, age, or disability has a right to file a complaint within 180 days of the alleged discriminatory action. If the complaint is made orally, in person, or by telephone, or if the complainant does not choose to make the complaint in writing, the person receiving the complaint shall document the elements of the complaint. Every effort should be made to have the complainant provide the following information:

1. the specific location and name of the entity delivering the program service or benefit;

2. the nature of the incident(s) or action(s) that led the complainant to feel discrimination was a factor;

3. the basis on which the complainant feels discrimination exists such as, race, color, national origin, age, sex, or disability;

4. the names, titles, and addresses of persons who may have knowledge of the discriminatory action(s);

5. the date(s) during which the alleged discriminatory action occurred or, if continuing, the duration of such actions;

6. the name, address, and the telephone number or other means of contacting the complainant. Anonymous complaints must be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2197 (December 2001).

#### **§2105. Nondiscrimination and Confidentiality**

A. There must not be any discrimination against students receiving free and reduced price meal benefits. The names of students must not be published, posted or announced in any manner or used for any purpose other than determining and verifying eligibility for free and reduced price meals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2198 (December 2001).

#### **§2107. Confidentiality and Disclosure of Eligibility Information**

A. The names of students and their meal eligibility status for meal benefits shall be kept confidential; however, it is acceptable for authorized individuals to disclose information under the following guidelines.

1. The Healthy Meals for Healthy Americans Act of 1994, P.L. 103-448, amended Section 9 (b)(C) of the National School Lunch Act (42 U.S.C. 1751 (b)(2)(C)) allows, without consent, limited disclosure of information about free and reduced price meal eligibility. Disclosure limitations apply to all the Child Nutrition Programs. The Statute specifies a fine of not more than \$1000 or imprisonment of not more than 1 year, or both, for unauthorized disclosure of free and reduced price meal eligibility information.

2. The USDA has authorized determining agencies (the State Agency, school food authority, schools including private schools, charter schools, child care institutions or Summer Food Service Program sponsors) to disclose free and reduced meal eligibility information to the extent authorized in the statute. Disclosure of eligibility information about participants beyond that authorized by the statute is permitted only with consent. The entity receiving the information from the determining agency, termed the receiving entity, may use the information for only the purpose authorized and may not share the information further. Providing aggregate information that does not identify individuals continues to be permitted without consent.

3. Determining agencies may disclose, without consent, participants' names and eligibility status (whether they are eligible for free meals or reduced price meals) to persons directly connected with the administration or enforcement of the following programs:

a. federal education programs, such as Title I and the National Assessment of Educational Progress;

b. state health or state education programs, provided the programs are administered by a state agency or a local education agency; Representatives of state or local agencies evaluating the results and compliance with student assessment programs would be covered only to the extent that the assessment program was established at the state, not local level;

c. federal, state, or local means-tested nutrition programs with eligibility standards comparable to the National School Lunch Program (i.e., food assistance programs to households with income at or below 185 percent of the federal poverty level, such as the Food Stamp Program or a state or local nutrition program); and

d. at the discretion of the local SFA, the eligibility status of prospective students enrolled in a Charter School approved by the SBESE may be disclosed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2198 (December 2001).

#### **§2109. Waiver of Confidentiality**

A. The USDA has ruled that a SFA may provide the eligibility status of students to another agency or program when a household waives its confidentiality. The SFA must ensure that each household's waiver

1. clearly informs the households of the waiver's purpose;

2. authorizes release of free and reduced price eligibility information;

3. identifies who will use the information; and

4. is signed by a parent or guardian; it is not the responsibility of the SFA to verify the authenticity of the signature, only to determine that a parent or guardian signs it.

B. The SFA is advised to develop written policies and guidelines before taking any action. Considerations should include the following:

1. the SFA's definitions of agency or program;

2. the agency's/program's method to protect against misuse of the information;



3. the name of the SFA employee who will administer the process and the

documentation that will be maintained by the SFA;

4. whether or not the SFA should have a written agreement with the agency/program, and the terms and conditions of that agreement; and

5. information stating that the eligibility of Food Stamps based on Directly Certified student eligibility should not be provided to other agency's/programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2198 (December 2001).

### §2111. Appendix

A. Sample: "...AND JUSTICE FOR ALL"

#### Appendix A. Sample "...AND JUSTICE FOR ALL"

...AND JUSTICE FOR ALL

In accordance with Federal and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write USDA; Director, Office of Civil Rights; Room 326-W, Whitten Building; 1400 Independence Avenue, SW; Washington, D.C. 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

Secretary of Agriculture

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2199 (December 2001).

### Chapter 23. Ethics

#### §2301. General

A. The School Food Authorities (SFAs) must adhere to the Louisiana Code of Governmental Ethics. If any portion of the chapter is in conflict with or does not address an issue covered by the Code of Governmental Ethics, the Code of Governmental Ethics will control. For additional information, please contact the Louisiana Board of Ethics; 8401 United Plaza Blvd., Suite 200; Baton Rouge, LA 70809-7017. Telephone: (225) 922-1400 or toll free 1-800-842-6630. Website: [www.ethics.state.la.us](http://www.ethics.state.la.us).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2199 (December 2001).

#### §2303. Fraud Statement

A. "Whoever embezzles, willfully misapplies, steals or obtains by fraud any funds, assets or property provided under the National School Lunch Program and/or School Breakfast Program whether received directly or indirectly, shall if such funds, assets or property are of value of \$100 or more, be fined not more than \$10,000 or imprisoned not more than 5 years or both; or if such funds, assets or property are of value of less than \$100, be fined not more than \$1,000 or imprisoned not more than one year or both. Whoever receives, conceals or retains to his use or gain, funds, assets or property provided under the National School Lunch Program and School Breakfast Program, whether received directly or indirectly, knowing such funds, assets or property have been embezzled, willfully misapplied, stolen

or obtained by fraud, shall be subject to the same penalties. (7CFR245.12, Jan. 1, 1999) "

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2199 (December 2001).

#### §2305. Gifts

A. School Food Authorities shall adhere to the Louisiana Code of Governmental Ethics.

B. No employee shall solicit or accept, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from any person who has or is seeking a contractual, business, or financial relationship with the SFA. There is no monetary restriction.

C. No employee shall solicit or accept, directly or indirectly, any thing of economic value as a gift from a person who is seeking for compensation to influence the passage or defeat of legislation by the SFA.

D. No employee shall receive anything of economic value, other than compensation and benefits from the SFA to which he is duly entitled, for the performance of the duties and responsibilities of his office or position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2199 (December 2001).

#### §2307. Food Taken From Schools

A. Unauthorized removal of food is prohibited.

B. Food may be taken from the school for school-sponsored field trips.

C. Food may be purchased by school employees for lunch and/or breakfast and consumed on school board property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2199 (December 2001).

#### §2309. Leftover Food

A. SFAs and school programs may receive inquiries from nonprofit agencies (and the general public) concerning the donation of extra foods prepared by the National School Lunch and Breakfast Programs. Schools may claim reimbursement for only one lunch and breakfast served per child per day, and schools are expected to plan and prepare sufficient amounts of food to achieve this goal. However, when the food actually prepared exceeds the amount needed for the reimbursable meal service, leftover foods may be donated to appropriate nonprofit institutions, such as soup kitchens or homeless shelters, provided that this practice is not prohibited by local laws or regulations and provided that all the following conditions are met.

1. Participation and menu records demonstrate that overproduction is not intentional.

2. The leftover foods could not be used in the food service program, and would otherwise be discarded.

3. State and local health codes/standards are followed; and

4. A written agreement on file between the SFA and the nonprofit organization includes, at a minimum, the following provisions: term of the agreement; duties of the school system; duties of the contractor; nondiscrimination

statement; a statement that the contractor is not an officer, employee, or agent of the school system; liability; hold harmless and indemnification clause; and certification of liability insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2199 (December 2001).

### **§2311. Purchasing**

A. The school employee may not participate directly or indirectly in procurement when the employee is knowledgeable of the following information.

1. The employee or any member of the employee's immediate family has a financial interest in the purchase.

2. The employee or any member of the employee's immediate family has a financial interest in the business or organization that is the vendor.

3. Any other person, business or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the purchase.

B. If a school district board member or other official has a financial interest in the purchase, that person shall abstain from discussion and decisions regarding the award of the bid. Also, the board member should disclose this financial interest by filing an affidavit with the school district.

C. Breaking up purchases with the intent of circumventing formal advertising procedures is contrary to Federal procurement regulations. Any change in the SFA's normal purchasing practices which results in the aggregate amount purchased becoming less than \$10,000 must be documented for review and audit purposes.

D. Once a bid has been accepted, and a vendor offers an item at a lower price than the bid price, the SFA is not free to obtain bids or quotations from anyone other than the vendor who has received the contract unless:

1. an amount has been specified in the bid;  
2. that amount will still be purchased from the bidder;  
and

3. the SFA wants to purchase an amount in addition to what was bid. Small purchase procedures or competitive sealed bids must be used in obtaining prices on additional merchandise. The SFA would also need to make a written explanation of why it needs to purchase the additional merchandise must and file the explanation with the bid or quotation information.

E. When a vendor offers an item not presently used at a special price below market value, all purchases must be based on specifications that clearly describe the item to be purchased. If the SFA has tried a new product and would like to purchase it, a clear description of the item must be written; and, depending on the amount to purchase, small purchase procedures or competitive sealed bids must be used.

F. When a vendor offers incentives such as stamps, equipment, or other prizes, the prices paid for all purchases should be based solely on the bid or quotation offered by a responsible seller giving the lowest price meeting specifications. When "incentives" such as prizes, stamps, equipment are offered and accepted, the "incentive" must become the property of the school food service program and

under no condition become the property of an individual. Special offers often mean higher prices, or lower quality, or both. Frequently, special prices are offered on old merchandise that the vendor wants to move. Promotional items or cash rebates received from vendors must be used for school food service purposes.

G. School food service employees cannot purchase items on bid for personal use.

H. Refer to "Chapter 17: Procurement Guidance" for further information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2200 (December 2001).

### **§2313. Gratuities**

A. School Food Authorities shall follow the Louisiana Code of Governmental Ethics as it relates to gratuities and gifts.

B. It is a breach of ethics for any person/firm to offer, give or agree to give any employee or former employee of a school district or for any employee or former employee of a school district to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore, pending before this government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2200 (December 2001).

### **§2315. Kickbacks**

A. The Louisiana Code for Governmental Ethics shall be followed by all School Food Authorities.

B. It is a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract of a school district or any person associated therewith, as an inducement for the award of a subcontract or order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2200 (December 2001).

### **§2317. Warning Statement of Criminal Provisions and Penalties**

A. The National School Lunch Act (42 U.S.C. 1761 (o)) §13(o) established the following statements.

1. "Whoever, in connection with any application, procurement, recordkeeping entry, claim for reimbursement, or other document or statement made in connection with the Program, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or

document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or whoever, in connection with the Program, knowingly makes an opportunity for any person to defraud the United States, or does or omits to do any act with intent to enable any person to defraud the United States, shall be fined not more than \$25,000 or imprisoned not more than five years, or both.

2. Whoever being a partner, officer, director, or managing agency connected in any capacity with any partnership association, corporation, business or organization, either public or private, that receives benefits under the Program, knowingly or willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any benefits provided by this Program, or any money, funds, assets, or property derived from benefits provided by this Program, shall be fined not more than \$25,000 or imprisoned for not more than five years, or \$1,000 or imprisonment for not more than one year, or both."

B. If two or more persons conspire or collude to accomplish any act described in CFR 210.26 and one or more of such persons do an act to effect the object of the conspiracy or collusion, each shall be fined not more than \$25,000 or imprisoned for not more than five years, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2200 (December 2001).

## Chapter 25. Summer Food Service Program

### §2501. Purpose

A. The Summer Food Service Program (SFSP) was established to ensure that, during school vacation periods, children could continue to receive the same high quality meals that are provided during the school year under the National School Lunch and School Breakfast Programs. The program resulted from not only an increased awareness of the critical importance of proper nutrition to children, but also a belief that school vacations should not end the availability of nutritious meals for children. The SFSP operates primarily during the months of May to September, when schools in most areas are closed. It also provides meals during vacation breaks for schools operated on a continuous school calendar. The SFSP is available to all children without regard to race, color, national origin, sex, age, or disability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2201 (December 2001).

### §2503. Sponsor

#### A. Qualifications

1. Organizations that may sponsor the SFSP are limited to the following:

a. public and private nonprofit school food authorities (SFA), summer camps, migrant centers, and colleges and universities that participate in the National Youth Sports Program (NYSP);

b. private, nonprofit organizations that meet specific criteria defined in SFSP regulations; and

c. local, parish, municipal, tribal, or State governmental units.

#### B. Responsibilities

1. The sponsor will be responsible for managing the site staff; responsibilities will include the hiring, conditions of employment, and termination of personnel. Another responsibility of the sponsor is exercising management control over SFSP operations at sites during the period of program participation. Private nonprofit organizations must have direct operational control over each site under their sponsorship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2201 (December 2001).

### §2505. Feeding Sites

A. Governmental sponsors and private nonprofit sponsors may use school facilities for operating feeding sites. SFAs are not obligated to allow other SFSP sponsors to use equipment or schools.

#### B. Description of Feeding Sites

Your Site is:	If:	Based on:
Open	At least half the children in the area are eligible for free and reduced-price school meals.	Area eligibility data from the local school or census block group
Enrolled	At least half the children enrolled in the program are eligible for free and reduced-price school meals.	Income eligibility statements describing the family's size and income
Camp	It offers a regularly scheduled food service as part of a residential or day camp program.	An individual child's eligibility for free and reduced-price meals
Migrant	It serves primarily children of migrant workers.	Appropriate certification from a migrant organization
NYSP	It is a college or university participating in the NYSP.	A child's enrollment in NYSP

#### C. Open Feeding Sites

1. There are two primary methods that may be used to determine whether the area that will be served is eligible: use of school data or census tract data.

a. School Data. Generally, sponsors will find it most helpful to contact their local school offices directly in order to obtain the relevant, current-year free and reduced-price data to document the need of the area they wish to serve. In most cases, current-year school data provide the most accurate representation of an area's current economic circumstances.

b. Census Tract Data. Sponsors may also document the area eligibility of their proposed sites on the basis of census tract data. However, census data should be used only when relevant, current-year information on free and reduced price eligibility in neighborhood schools is unavailable.

c. Sponsors of open sites are reimbursed for program meals served to all attending children.

#### D. Enrolled Sites

1. Enrolled sites serve only identified groups of children on a daily basis. Sponsors must document an enrolled site's eligibility based on an eligibility form

submitted by the parent or guardian of each child enrolled at each site. Enrolled sites provide meals only to children who are enrolled in an activity program.

2. Sponsors of enrolled sites are reimbursed for program meals served to all enrolled children in attendance.

E. Residential and Nonresidential Camps

1. Residential summer camps and nonresidential day camps that offer a regularly scheduled food service as part of an organized camping program for enrolled children may participate. In addition, nonresidential day camps must offer a continuous schedule of organized cultural or recreational programs for enrolled children; they can participate as sites only under eligible sponsoring organizations. Sponsors must collect eligibility forms and make individual determinations for all enrollees, since the sponsor is reimbursed for SFSP meals served to only those children eligible for free or reduced price school meals.

2. Camp sponsors receive reimbursement for meals served only to campers who have been individually determined eligible for free or reduced price school meals. Three reimbursable meals per eligible individual may be claimed each day.

F. Migrant Sites

1. To confirm migrant status and to document a site's eligibility, sponsors must submit information obtained from a migrant organization that certifies that the site serves children of migrant workers. If the site also serves non-migrant children, the sponsor must certify that the site predominantly serves migrant children.

2. Sponsors of migrant sites are reimbursed for program meals served to all attending children. Three reimbursable meals may be claimed each day.

G. National Youth Sports Program Sites

1. NYSP sites may qualify for the program in one of two ways: by enrollment or by a child's area of residence. All children participating at a NYSP site may receive reimbursable meals if at least 50 percent of the children enrolled in the program reside in geographical areas where poor economic conditions exist, or if at least 50 percent are individually determined to meet income eligibility guidelines that were in effect on the preceding July 1.

2. Homeless feeding sites that serve primarily homeless children may participate regardless of their location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2201 (December 2001).

**§2507. Meal Requirements**

A. Meals served must meet SFSP requirements and meal patterns. These requirements differ from those of the National School Lunch Program and School Breakfast Program.

B. A reimbursable lunch/supper includes the following:

1. one serving of milk;
2. two fruit/vegetable servings;
3. one enriched grain/bread serving; and
4. one meat/meat alternative serving.

C. A reimbursable breakfast includes the following:

1. one serving of milk;
2. one fruit/vegetable serving; and
3. one enriched grain/bread serving.

D. A reimbursable snack includes two of the following components with the exception that milk and juice cannot be served together:

1. one milk serving;
2. one fruit/vegetable serving;
3. one enriched grain/bread serving; and
4. one meat/meat alternative serving.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2202 (December 2001).

**§2509. Age Limitations**

A. Children age 18 and under may receive meals through SFSP. Special permission must be granted by the State Agency to feed children below the age of one year. Persons over 18 years of age who are determined by the State to be mentally or physically handicapped, and who participate in a public or nonprofit private school program established for the mentally or physically disabled may also participate in the SFSP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2202 (December 2001).

**§2511. Hours of Operation**

A. The sponsor must ensure the time restrictions described below.

1. There must be a three hour elapse between the beginning of one approved meal service (including snacks) and the beginning of another meal.

2. There must be a four hour elapse between lunch and supper when a migrant or day camp site serves lunch and supper, with no afternoon snack between the two meals.

3. Supper must begin before 7 p.m. (unless the administering agency grants a waiver) and, in all cases, must end by 8 p.m.

4. The serving period for lunch and supper should not exceed two hours.

5. The serving period for breakfast and snacks should not exceed one hour.

B. Residential camps are excluded from the above time restrictions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2202 (December 2001).

**§2513. Bidding Procedures**

A. A school or SFA may act as a Food Service Management Company for a SFSP sponsor; the school or SFA is exempt from registering with the State Agency. Governmental sponsors or private nonprofit sponsors must use their own bidding procedures for food and supplies unless the SFA has a contract with the sponsor as a Food Service Management Company. SFAs acting as SFSP sponsors or as official Food Service Management Companies for another sponsor may indicate on the specifications that the bidding may extend through the summer months while operating the SFSP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2202 (December 2001).

#### **§2515. Records**

A. Records for the SFSP must be maintained separately from the National School Lunch Program and the School Breakfast Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2203 (December 2001).

#### **§2517. Extra Foods**

A. Inventory that is leftover at the end of the school year may be donated to the SFSP. Additionally, inventory, that is leftover from the SFSP, may be donated to the school's Child Nutrition Program. Nonperishable items may be stored from year to year if there is adequate storage space.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2203 (December 2001).

#### **§2519. Summer Food Service Program (SFSP) Appeals Procedures**

A. The sponsor or food service management company has seven calendar days from the date on which the notice of action is received to request an appeal.

B. The appellant (sponsor or food service management company) may review all information upon which the action was based.

C. The appellant may refute the charges contained in the notice of action either in person or by filing written documentation with the appeals officer. To be considered, written documentation must be submitted by the appellant within seven days of submitting the appeal, must clearly identify the State agency action being appealed, and must include a photocopy of the notice of action issued by the State agency.

D. A hearing will be held by an appeals officer in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter appealing the action. The appellant may retain legal counsel or may be represented by another person. Failure of the appellant's representative to appear at a scheduled hearing shall constitute the appellant's waiver of the right to a personal appearance before the appeals officer, unless the appeals officer agrees to reschedule the hearing in accordance with §2519.F below. A representative of the State agency shall be allowed to attend the hearing to respond to the appellant's testimony and written information and to answer questions from the appeals officer.

E. If the appellant has requested a hearing, the appellant and the State agency shall be provided with at least 5 days advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing.

F. The hearing will be held within 14 days of the date of the receipt of the request for review, but, where applicable, not before the appellant's written documentation is received in accordance with §2519.C and D.

G. The appeals officer is independent of the original decision-making process.

H. The appeals officer will make a determination based on information provided by the State agency and the appellant, and on Program regulations.

I. Within five working days after the appellant's hearing, or within five working days after receipt of written documentation if no hearing is held, the appeals officer will make a determination based on a full review of the administrative record and inform the appellant of the determination of the review by certified mail, return receipt requested.

J. The State agency's action will remain in effect during the appeal process. However, participating sponsors and sites may continue to operate the Program during an appeal of termination, and if the appeal results in overturning the State agency's decision, reimbursement shall be paid for meals served during the appeal process. However, such continued Program operation shall not be allowed if the State agency's action is based on imminent dangers to the health or welfare of children. If the sponsor or site has been terminated for this reason, the State agency shall so specify in its notice of action.

K. The determination by the State appeals officer is the final administrative determination to be afforded to the appellant.

L. Appealable actions include: A denial of an application for participation; a denial of a sponsor's request for an advance payment; a denial of a sponsor's claim for reimbursement [except for late submission under 7CFR 225.9(d)(5)]; a State agency's refusal to forward to the United States Department of Agriculture, Food and Nutrition Services (FNS) office an exception request by the sponsor for payment of a late claim or a request for an upward adjustment to a claim; a claim against a sponsor for remittance of a payment; the termination of the sponsor or a site; a denial of a sponsor's application for a site; a denial of a food service management company's application for registration; or the revocation of a food service management company's registration. Appeals shall not be allowed on decisions made by FNS with respect to late claims or upward adjustments under 7 CFR 225.9(d)(5). For more information refer to 7 CFR 225.13 Appeal procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2203 (December 2001).

#### **§2521. Information**

A. For more information, refer to the USDA Summer Food Service Program for Children, 1999 Administrative Guidance for Sponsors or visit USDA's web site at [www.usda.gov](http://www.usda.gov).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2203 (December 2001).

### **Chapter 27. Special Milk Program**

#### **§2701. Purpose**

A. The Special Milk Program (SMP) is designed to encourage consumption of fluid milk by children in the United States who do not have access to the National School Lunch and Breakfast Programs. The program is administered by the Louisiana State Department of Education (LDOE) to

eligible public and nonpublic schools and nonprofit child care institutions or agencies. Reimbursement funds are provided by the United States Department of Agriculture (USDA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2203 (December 2001).

### **§2703. Sponsors**

A. Sponsorship of SMP is limited to school boards or governing bodies of nonpublic schools and nonprofit child care institutions. Sites that participate in the National School Lunch and Breakfast Programs, that serve children who attend split-session kindergarten and other pre-primary school programs and who do not have access to the School Lunch and Breakfast Programs, may participate. Sponsors, by agreement, accept full responsibility for the operation of the program in compliance with regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2204 (December 2001).

### **§2705. Agreement and Application**

A. A written agreement setting forth conditions of participation shall be entered into between the State Agency and the SFA. The application shall include the current SMP policy statement and other information required by the State Agency. The Sponsor shall maintain on file a copy of the Free Milk Policy Agreement and Free Milk Guidance Material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2204 (December 2001).

### **§2707. Conditions of Agreement**

A. SFAs must ensure compliance with program regulations. In fulfilling its responsibilities, SFAs must agree

1. to participate in the SMP only if it does not participate in any other meal program authorized by the National School Lunch Act; the only exception would be for split-session kindergarten children and pre-primary children who do not have access to other meal programs;

2. to serve milk free of charge, at least once during each day of operation, to needy children and to make no discrimination against any needy child because of his inability to pay for the milk;

3. to comply with USDA regulations regarding nondiscrimination;

4. to claim reimbursement only for pasteurized fluid milk (unflavored or flavored whole milk, low-fat milk, skim milk, and cultured buttermilk), which meets State and local standards;

5. to submit claims for reimbursement in accordance with procedures established by the State Agency;

6. to maintain full and accurate records of its milk program, including, but not limited to, the number of half pints of milk served free to needy children, and to retain the records for a period of three years after the fiscal year to which they pertain;

7. to make all records pertaining to its milk program available to State or Federal agencies for review upon request; and

8. to provide adequate refrigerated storage or to make arrangements to serve the milk as soon as it is delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2204 (December 2001).

## **Chapter 29. Child and Adult Care Food Program**

### **§2901. Purpose**

A. The Child and Adult Care Food Program (CACFP) is authorized under the National School Lunch Act (NSLA) and the Child Nutrition Act of 1966 and is administered by the Louisiana Department of Education, Division of Nutrition Assistance. The primary focus of the Program is to enable day care centers, outside-school-hour centers, at-risk after school sites and homeless programs to provide nutritious meals to the children and adults they serve, regardless of race, color, national origin, gender, age or disability. The CACFP serves children, infants through 18 yrs. old and disabled at any age, and the functionally or physically impaired adults, who participate in non-residential day care services, except for the homeless program. The State Agency currently administers CACFP to approximately 310 Institutions in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2204 (December 2001).

### **§2903. Institutions**

A. Criteria for Program participation/application approval:

1. financial viability, administrative capability and internal controls in place to ensure Program accountability;

2. Class A licensed facility or a current health/sanitation and fire inspection reports (At-risk Afterschool Snack and Homeless Programs ONLY);

3. a site pre-approval visit to determine whether the site(s) has the equipment and means to carry out the food service operations;

4. tax exempt status, as defined under the Internal Revenue Service Code of 1986 or receives compensation under Title XIX or XX of the Social Security Act and certifies that payments for participants constitute at least 25 percent of the enrolled eligible participants or licensed capacity, whichever is less, during the preceding month of the initial application.

#### **B. Responsibilities**

1. Comply with all regulations set forth in 7 CFR Part 226 of the Child and Adult Care Food Program regulations, and all other State and Federal laws, regulations, policies, instructions and requirements established for this Program.

2. Accept final administrative and financial responsibility for the total CACFP operations.

3. Provide services to all eligible participants without regard to race, color, national origin, gender, age or disability.

4. Provide adequate supervisory and operational personnel for management and monitoring of the program.

5. Establish procedures to collect and maintain all required program records.

6. Provide access to all records and accounts for review and/or audit by authorized representatives of USDA, State or Federal program managers or auditors during normal working hours to ascertain compliance and enforcement of Title VI.

#### C. State Agency Responsibilities

1. Comply with and meet all responsibilities and requirements set forth in 7 CFR Part 226 of the Child and Adult Care Food Program Regulations and all other State and Federal laws, regulations, policies, instructions and requirements established for this program.

2. Provide technical and supervisory assistance to facilitate effective program operations, to monitor progress toward achieving program goals, and to ensure compliance with the nondiscrimination regulations.

3. Provide training to Institutions at least three times per year.

4. Monitor and review Institution for compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2204 (December 2001).

#### §2905. Meal Requirements

A. All meals served to eligible participants must meet USDA component/meal pattern and portion-size requirements. Meal types may include two meals and a snack, two snacks and a meal, three meals, or snack only depending upon the Program. There are no separate charges for meals. Institutions must also use four-week cycle menus to provide a variety of foods with adequate sources of vitamins C and A, as required. To improve the nutritional health of children over one year of age, schools may serve additional foods: for instance, an egg, cheese or meat item added at breakfast. Substitutions may be made to required components, if individual participants are unable, because of medical or other special dietary needs, to consume such foods. Substitutions because of medical needs shall be made only when supported by a statement from a recognized medical authority, which includes recommended alternate foods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2205 (December 2001).

#### §2907. Reimbursements

A. The claim for reimbursement should be submitted to the State Agency by the tenth of the following month. Each institution participating in the Program shall claim only the meal types specified in its approved application in accordance with the meal pattern requirements specified in 7CFR Part 226. Reimbursements may not be claimed for meals served to participants who are not enrolled, for meals served to participants at any one time in excess of the authorized capacity, or for any meal served at a Title XIX or XX center during a month when less than 25 percent of enrolled participants or licensed capacity, whichever is less, were Title XIX or XX beneficiaries. Using the current reimbursement rates, payments are made to institutions based upon the number of meals served daily to participants

determined as eligible for free, reduced or above meals. The current reimbursement rates are effective from July 1, 2000 to June 2001.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2205 (December 2001).

#### §2909. Required Records

A. Documentation of non-profit food service to ensure that all program reimbursement funds are used solely for the conduct of the food service operation or to improve such food service operations, for the benefit of the enrolled participants must be maintained:

1. copies of all applications and supporting documents submitted to the State agency;

2. documentation of the enrollment of each participant, including information used to determine eligibility for free or reduced price meals;

3. daily records indicating the number of participants in attendance and the number of meals by type served to participants;

4. copies of all claims for reimbursement;

5. documentation of staff training, including date(s) and location(s); topics presented; and the names of participants;

6. receipts for all Program payments received from the State agency;

7. copies of menus, menu worksheets and any other food service records required by State agency; and

8. copies of invoices, receipts, or other records required to document administrative costs, operating costs and income to the Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2205 (December 2001).

### Chapter 31. Disaster Feeding

#### §3101. Release of USDA Commodity Foods for Disaster Feeding: The Recipient Agency's Role in a Disaster

A. Disasters such as hurricanes, tornadoes, floods, and chemical spills may generate a need for congregate (mass) feeding. Any food donated by USDA to School Food Authorities (SFAs) can be used in disaster feeding. Other organizations having USDA commodities must cooperate fully and make these foods available to designated agencies involved in disaster feeding activities.

B. The American Red Cross is the primary disaster organization; but the USDA, directly and through SFAs, will provide foods to any recognized agency equipped to serve disaster victims. The Salvation Army, civic organizations, and others are able to provide food preparation for congregate service. USDA has no foods specifically designated for disaster feeding and must depend on foods in State warehouses and at the SFAs. Commodity foods are not always available in quantity to fill all needs, but they do provide a good supplement to those provided by the designated agency.

C. Prior to providing commodity foods to disaster organizations, SFAs are required to get prior approval from the Food Distribution Division. Upon contacting the Food

Distribution Division, SFAs should give the following information to the extent possible:

1. a description of the major disaster or emergency situation;
2. the number of people requiring meals and the congregate meal service period;
3. the quantity and type of food needed for the congregate meal service;
4. the number and location of sites providing the congregate meal service.

D. It is necessary for the Food Distribution Division to report the above information to the USDA Southwest Regional Office within 24 hours. Prompt reporting will help with replacement of commodities used.

E. Accurate records must be kept of all USDA commodities provided or used for disaster feeding. Signed receipts must be kept for all USDA commodities transferred to eligible disaster feeding organizations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2205 (December 2001).

### **§3103. Statement of Understanding Between the American School Food Service Association and the American National Red Cross with Respect to Emergency Feeding in Disaster**

A. The American School Food Service Association (ASFSA) and the American National Red Cross desire to cooperate in meeting human needs growing out of natural disasters. To effect coordination that will ensure maximum cooperation and utilization of the resources and efforts of both organizations, the associations have prepared this statement of understanding. Its purpose is to define the fields of responsibility in which the ASFSA and the American Red Cross will cooperate and to serve as a guide for membership of both organizations.

B. Experience shows that it is frequently necessary for the Red Cross to use school buildings for shelters and for mass feeding in a community emergency. The kitchen, cafeteria facilities, and experienced food service staff provide a resource of vital importance in such an emergency.

C. The Red Cross recognizes that school buildings are the property of local school districts and that permission for use of these buildings must be obtained from local school officials.

D. The ASFSA has membership engaged in the supervision and management of the nation's school food service programs. The Red Cross recognizes that this membership has special and expert knowledge of mass feeding that is valuable in disasters. Personnel are trained and experienced in quantity food production, and have knowledge of state and local sanitary regulations.

E. The ASFSA recognizes that one of the primary responsibilities of the American Red Cross, as a quasi-governmental agency, is the relief of human suffering resulting from natural disasters. This responsibility has been placed upon the American Red Cross Act of Congress (36 U.S. Code Section 1 and following), assigning as one of its duties:

1. "to continue and carry on a system of national and international relief in time of peace and apply the same in mitigating the sufferings caused by pestilence, famine, fire, *Louisiana Register Vol. 27, No. 12 December 20, 2001*

floods, and other great national calamities, and to devise and carry on measures for preventing the same."

2. This responsibility has also been recognized in Public Law 93-288, the Disaster Relief Act of 1974.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2206 (December 2001).

### **§3105. Types of Assistance**

A. Subject to the approval of local school officials, the American National Red Cross prefers the following type of personnel and facilities for disaster feeding:

1. participation in Red Cross division and chapter predisaster planning for emergency feeding;
2. utilization, with Board of Education approval, of school food service facilities as central feeding stations or as central food preparation stations for fixed or mobile feeding;
3. utilization of food and supply, inventories on hand, including USDA commodities;
4. participation of regular school food service personnel for supervision of the use of school lunch facilities;
5. participation of school food service personnel in the preparation and service of food on premises other than the school cafeteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2206 (December 2001).

### **§3107. Responsibilities Assumed**

A. The American Red Cross responsibilities will include the following activities:

1. assume financial responsibility for the cost of feeding persons in need as a result of disaster after appropriate clearance with an authorized Red Cross representative;
2. retain administrative control of all financial commitments made in connection with the utilization of school cafeteria facilities for Red Cross feeding;
3. provide additional food through the cooperation of USDA to augment other food supplies needed in the feeding program;
4. replace, upon request, foods provided by USDA as well as foods purchased by individual schools when such foods are utilized in authorized Red Cross disaster feeding programs;
5. provide identification for facilities being utilized with primary recognition of the School Lunch Program;
6. provide additional volunteers to assist school food service personnel throughout the disaster feeding operation as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2206 (December 2001).

### **§3109. Disaster Relief Feeding Plan**

A. The State recommends that a Disaster Relief Feeding Plan be developed and written by the CNP director along with other local Emergency Preparedness Organizations.

B. The disaster plan should be distributed to all schools and should include the following information:



1. names and emergency telephone numbers of suppliers, school officials, local government agencies, law enforcement, etc.;

2. organizational line chart indicating names and telephone numbers of emergency relief officials;

3. names and telephone numbers of contact people from the Red Cross, Salvation Army, or other agencies that will assist in managing shelters;

4. a list of buildings to be used as shelters with their addresses, telephone numbers; the order in which shelters will be opened; the names/positions/telephone numbers of managing personnel; layout of the school indicating which areas may be used to place evacuees; electrical, water and gas shut-off; and emergency telephone procedures, keys, etc.;

5. emergency shut down procedures for SFS;

6. emergency procedures to secure school food service vehicles check as well as to locate refrigerated vendor trucks for a possible storage, if needed;

7. staffing assignment for schools to be used to prepare meals - include a morning and afternoon team;

8. identification cards for school food service staff who will work at shelters so they will have access to shelters, SFS office, and any restricted areas;

9. procedures the transportation department will implement to ensure delivery of food, supplies, and personnel to the shelters;

10. training program for personnel managing the shelters;

11. procedures for safeguarding food, supplies, and equipment against theft or misuse;

12. instructions for using USDA commodities;

13. a set of small equipment and supplies needed for shelters and SFS office;

14. procedures for delivery of food to shelters (include food handling, temperature control);

15. preplanned menus using USDA commodities and convenience foods normally in stock;

16. procedures for recording food, supplies and labor used at shelters and SFS office;

17. a map of evacuation routes;

18. emergency communications system (cell phones, radios, etc.);

19. procedures for cleaning school and disposing of spoiled items, etc. after disaster is over;

20. procedures for billing agencies for food and labor costs after the disaster is over.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2206 (December 2001).

### **§3111. Emergency Shut Down Procedures**

A. The SFA and local cafeteria staff should, prior to closing for impending disaster,

1. develop menu substitutions with the central office to utilize as many frozen leftovers as possible;

2. instruct managers not to thaw any foods for the remainder of the week's menu;

3. use as much fresh produce as possible;

4. secure garbage cans, brooms, mops and other items that may be stored outside of the building;

5. move small equipment, cooking utensils, supplies, paper products, food items, etc., stored on lower shelves as high as possible in schools where rising water could be a problem;

6. print a copy of an up-to-date small and large inventory if on computer; store the printed inventory in a safe place;

7. print a copy of the students' lunch ID numbers and students' account balances, if on computer and store the copy in safe place;

8. disconnect and secure all computers and other office equipment; store computers/printers on highest possible shelf; cover with plastic;

9. store diskettes in a safe place such as principal's office, top shelf in storeroom, manager's home or child nutrition office;

10. mail school and central office back-up diskettes to software company (if they are not in the hurricane area);

11. create a list and order the food, supplies, and other items needed;

12. conduct training on shelter policies and procedures to all employees interested in working at the shelter;

13. inspect prospective shelter site making sure everything is secure; food, milk, paper plates, disposable flatware and other paper products should be in stock;

14. secure a generator for refrigerated centralized warehouse, if necessary;

15. request all employees to listen to news media for details about school closures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2207 (December 2001).

### **§3113. Procedures to Follow during Operation of Shelter**

A. In the event of an emergency, the designated disaster organization operating in the parish must contact the SFA if assistance is needed. The designated disaster organization and the SFA should determine which school locations would be open to provide relief. The size of kitchen and cafeteria, amount of inventory on hand, size and condition of equipment, and available staff should be considered in determining locations.

B. After a school site has been selected, the following guidelines for the SFA are suggested.

1. Keep accurate records concerning the labor hours of employees, including breaks.

2. Plan meals consisting of a meat component, fruit and vegetable components, a bread component and a milk component if possible. However, if a meal that does not have all the components is served, the disaster organization shall reimburse or replace the food that was used.

3. Revise the menu to use up any perishable items.

4. Incorporate larger portions for adults.

5. Keep current day's menu and serving times posted outside the cafeteria entrance.

6. Lock storerooms, refrigerators, and freezers at all times to prevent theft.

7. Issue food and supplies one to two times per day.

8. Record all borrowed foods from other schools and complete transfer slips as time permits.

9. Keep accurate records of all counts, food and supply issues, etc. The Cost of Food Used Form could be used to document this information. The amount of food prepared and the number of individuals served per meal must be kept for reimbursement or food replacement from the disaster organization.

10. Satelliting food to a location increases the number served to 100 percent; if serving meals in the cafeteria, expect approximately 60 percent participation.

11. Request additional food items if the disaster extends over a long of period time. Contact the Louisiana Food Distribution Division at (225) 922-1255 if additional USDA commodity items are needed. Contact neighboring parishes or vendors that already have bid awards for purchased items.

12. Prepare coffee for 15 to 20 hours per day.

13. Bag and freeze ice in pint bags for people who require refrigerated medication.

14. Keep sinks full of clean water between use in case the water service is disrupted. Fill the washing machine and sanitized trash cans with water

15. Place a microwave in the cafeteria for the convenience of those housed there.

16. Use paper towels or disposable wipes, not dishtowels.

17. Use disposable utensils to prevent permanent silverware theft.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2207 (December 2001).

### **§3115. Procedures to Follow after the Shelter Closes**

A. Complete and submit the commodity forms to Food Distribution within 24 hours after site closure.

B. Complete the required reimbursement forms. Each organization has different forms; the forms may have changed from the previous year.

C. Calculate reimbursement monies for food, supplies, and labor used during the disaster.

D. Follow-up on all reimbursements.

E. When school resumes following a disaster, the LDOE may temporarily allow schools to serve, for reimbursement, lunches that do not meet the meal component/meal option requirements. Prior approval from the LDOE is required. Contact the Division of Nutrition Assistance, School Food Service Programs, Baton Rouge office at (225) 342-3720.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2208 (December 2001).

### **§3117. Louisiana Office of Emergency Preparedness**

A. The Louisiana Office of Emergency Preparedness is a State disaster organization that can be reached at 1-800-256-7036 or (225) 342-5470.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2208 (December 2001).

### **§3119. Food Salvage at School Sites**

A. Contact the local public health department for any questionable items.

B. In case of floods, destroy all foods that may have come into direct contact with flood-waters. Unless exposed to floodwaters (through seepage into freezer), solid frozen foods are usually safe. Intact (not dented or bulging) canned foods can be salvaged by removing labels and scrubbing the surfaces with hot soapy water. Rinse cans with clean water and soak in chorine solution for 90 seconds. Mark the can with its content name and expiration date.

C. In case of fire, all canned, refrigerated and frozen foods should be discarded depending on the severity of the fire, the affect of smoke, and toxic chemicals used to fight the fires. Smoke, toxic fumes, and intense heat can penetrate almost any packaging and can create off-odors in stored foods. Any foods directly exposed to these toxic chemicals should be disposed of and the cookware decontaminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2208 (December 2001).

### **§3121. Power Outages**

A. Refer to Chapter 21: Sanitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2208 (December 2001).

## **Chapter 33. Financial Management and Accounting for Child and Adult Care Food Program Family Day Care Homes (FDCH)**

### **§3301. Purpose**

A. Federal Child and Adult Care Food Program (CACFP) funds are provided to assist State agencies through grants and other means to initiate, maintain, and expand nonprofit food service programs for children or adult participants in nonresidential institutions that provide care. The CACFP home-based program is called the Family Day Care Home (FDCH) Program.

B. This chapter summarizes the most frequently referenced elements of the Federal regulations that govern the FDCH program financial management, and stipulates the State Agency's financial management policies. This chapter exists to assure that costs charged to nonprofit food service provided principally to enrolled participants; and where applicable, to assure that costs claimed for reimbursement under the CACFP are allowable, necessary, and reasonable for effective and efficient operation of the program; and to assist institutions in developing the accounting information needed to comply with the requirements of the CACFP.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2208 (December 2001).

### **§3303. Authority**

A. The CACFP is authorized by Section 17 of the National School Lunch Act, as amended. The Catalog of Federal Domestic Assistance Number for the CACFP is 10.558.

B. This chapter is not all-inclusive. Approved sponsors are required to comply with the following:

1. Administrative Requirements

a. United States Department of Agriculture (USDA) Code of Federal Regulations (CFR), Title 7, Part 226 Child and Adult Care Food Program (7 CFR Part 226);

b. Office of Management and Budget (OMB) Circular A-110 (10/8/99 Revision) Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations;

c. USDA 7 CFR Part 3015 (after 8/14/00 Revision of Parts 3016 and 3019) – Uniform Federal Assistance Regulations;

d. USDA 7 CFR Part 3016 (8/14/00 Revision)C Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;

e. USDA 7 CFR Part 3019 (8/14/00 Revision)C Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations;

f. OMB Circular A-87 (8/29/97 Revision), Cost Principles for State and Local Governments;

g. 48 CFR Part 31 Contract Cost Principles and Procedures;

h. OMB Circular A-122 (6/1/98 Revision), Cost Principles for Nonprofit Organizations;

i. 34 CFR Part 85, Government-Wide Debarment and Suspension (Nonprocurement) and Executive Order 12549: Federally funded agencies shall not award assistance to applicants that are debarred or suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs;

j. USDA 7 CFR Part 3017 – USDA regulations implementing Government-wide Debarment and Suspension (Nonprocurement);

k. 34 CFR Part 82, “New Restrictions on Lobbying”, (United States Code, Title 31, Section 1352);

l. USDA 7 CFR Part 3018, USDA regulations implementing New Restrictions on Lobbying;

m. USDA Financial Management Instructions 796-2, Rev. 2 (6/28/94Revision) – Financial Management – Child and Adult Care Food Programs;

n. Federal Administrative Regulations 31.205-46;

o. Louisiana State Travel Regulations;

p. Louisiana Family Day Care Home Memorandum Series;

q. Terms of the application/agreement with the State agency;

2. Audit requirements

a. Office of Management and Budget (OMB) Circular A-133 (6/24/97 Revision) Audits of States, Local Governments, and Non-Profit Organizations;

b. USDA 7 CFR Part 3052 (1/1/00 Revision) - Audits of States, Local Governments, and Non-Profit OrganizationsC USDA regulations implementing Circular A-133;

c. Louisiana Revised Statutes 24:513C State Audit Requirements.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2208 (December 2001).

### §3305. Sponsor Eligibility

A. Institutions that have received approval from the Louisiana Department of Education, Division of Nutrition Assistance, hereinafter referred to as "State Agency," to participate in the FDCH are hereinafter referred to as "sponsors." Eligibility requirements are as follows:

1. Institutions must be a public entity, a non-profit corporation, or have tax-exempt status under the Internal Revenue Code of 1986.

2. Institutions must not have been disqualified from participation in any other publicly-funded program for violating that program's requirements.

3. Institutions must be administratively capable of operating the FDCH Program.

4. Institutions must be financially viable.

a. Examples of criteria that will be used by the State Agency to determine financial viability are:

i. whether an institution has adequate resources to support program functions. Institutions must submit documentation of an alternate source of institutional revenue to demonstrate financial viability.

ii. the institution must demonstrate the ability to pay the total budgeted salary(ies), benefits and travel as requested in the requested FDCH administrative budget.

5. Institutions must have internal controls in effect to ensure program accountability.

B. Sponsor Participation Approval. Approval for new sponsoring institutions or for expansion of existing sponsoring institutions will be granted only in targeted service areas of the state where children are not being served or where they do not have access to program benefits.

1. Potential Sponsors. For potential sponsors, applications for participation in the FDCH Program must include documentation that no currently approved sponsor is providing access to the FDCH Program in the requested service area.

2. Expansion of Service Area. In order for a State-approved sponsor to request expansion into an additional service area, the sponsor must submit documentation that no State-approved sponsor is providing access to the FDCH Program in the requested service area.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:0000 (December 2001).

### §3307. Management Plan And Administrative Budget Approval

A. Management Plan. The State must approve the management plan, which is submitted by the institution in the form of the FDCH Application/Agreement. Such a plan shall include detailed information on the institution's administrative structure; the staff assigned to program management and monitoring; the administrative budget; and the procedures which will be used to administer the program in, and disburse payments to, the homes where the child care is provided. These homes are hereinafter called "providers." A provider operates under the jurisdiction of a sponsoring institution called a "sponsor." Each sponsor shall be required to incorporate the budget into its management plan.

1. Each of the current members of the sponsor's Board of Directors must sign a certification statement acknowledging their membership and their understanding of their specific duties, responsibilities, and liabilities as a member of the governing board. This certification statement is an integral part of the annual application/agreement.

2. The majority of the sponsor's Board of Directors may not be composed of institution employees, providers, and/or family members of employees/providers.

3. The President of the Board of Directors may not be a sponsor employee or a provider, and should not be a family member of a sponsor employee or provider.

B. Budget. The State Agency must approve the sponsor's administrative budget and limit allowable administrative costs claimed by each sponsor to the administrative costs approved in its annual budget.

1. Maximum. The administrative budget shall be based on no more than the maximum number of eligible homes plus 10 percent, times the administrative rate at the time of submission of the application/agreement to the State Agency.

2. Variance of Line Item Amounts. Sponsors may increase any budget line item by as much as 10 percent above the approved amount without State Agency approval of the increase. The 10 percent variance does not apply to the total budget amount. The total annual budget may not be increased in any amount without State Agency approval.

3. Budget Amendments. Budget amendments will be approved as early as the first of the month in which all complete and correct information is received by the State Agency. Budget amendments cannot be approved retroactively to a previous month.

a. Approved budgeted amounts must be calculated for the number of months an amendment was effective.

4. Personnel. The personnel page of the budget (Form DCH-102) is under the same restrictions as a line item of the total budget. An individual's salary may increase by no more than 10 percent. A new position may not be added without State Agency approval. Although personnel changes within an approved position may be made without State Agency approval, the name of the new staff member must be on file at the State Agency to update the sponsor's application/agreement and to authorize the person as an FDCH employee. All personnel changes within an approved position must be reported to the State Agency within the month in which they occur.

a. The salaries of all sponsor employees must be in line with the average salaries for comparable positions in other nonprofit agencies or government entities in the service area.

5. Travel. Travel costs must be included in the sponsor's budget in an amount that may be reasonably needed to provide monitoring and training of providers.

6. Reasonable Budget. The State Agency shall retain the authority to determine the limits of a reasonable budget, depending upon the size of the sponsor's FDCH program, employee duties and the economic conditions of the locale. Adjustments, revisions or justification shall be on file with the State Agency before approval of the budget.

7. Provider Cap. An initial cap shall be placed on the number of providers to be approved for new sponsoring institutions.

8. Administrative Cap. For sponsors already participating in the FDCH Program, the State Agency shall place a cap on the number of providers if the sponsor's staffing pattern and management plan do not reflect sufficient administrative capability to administer more homes. Additional providers shall be approved commensurate with the sponsor's capabilities.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2209 (December 2001).

### **§3309. Sponsor Administrative Operations**

A. Management Responsibilities. Sponsoring institutions must accept final administrative and financial responsibility for FDCH Program operations. Management and administrative duties and responsibilities of a sponsor shall not be contracted out. Management responsibilities must be performed by paid employees of the sponsoring institution.

1. Monitoring.

a. Monitoring duties shall not be contracted out, under any circumstances.

b. Volunteer staff may not monitor providers.

c. All providers must be successfully monitored at least three times each calendar year. A successful monitoring visit occurs when meal services by the provider to enrolled non-resident children are observed.

d. Monitoring must be conducted within 15 minutes before or after scheduled meal service.

e. All meal types claimed by a provider must be successfully monitored by the sponsor within each calendar year.

f. The State Agency may require sponsors to conduct additional provider monitoring if a sponsor is determined to be deficient in its management operations.

B. Records and Reports. Sponsors of all Child Nutrition Programs under the administration of the Division of Nutrition Assistance shall submit to the State Agency any and all records and reports as required. Such records and reports shall be submitted within the timelines and in the manner specified by the State Agency.

1. Sponsors shall maintain on file all cancelled checks made on any program account.

C. Accounting. The following State Agency financial management policies must be adhered to:

1. Allocation of costs. Shared (joint) costs of a sponsor's operation that cannot be specifically identified as FDCH administrative costs or costs that benefit both allowable and unallowable FDCH activities shall be prorated on a consistent and rational basis, as described in a cost allocation plan.

a. The cost allocation plan shall be submitted with the application/agreement, if applicable, to the State Agency for approval.

b. All programs operated by the sponsor, regardless of the fund source, that share any costs with the FDCH Program shall be included in the sponsor's cost allocation plan. Shared costs must be allocated so that only the portion of the costs related to allowable FDCH Program activities are included in the sponsor's administrative budget and charged to FDCH funds.

c. All costs included in the cost allocation plan shall be supported by formal accounting records, which will

substantiate the propriety of charges. It is the sponsor's responsibility to include all affected programs in the cost allocation plan and to maintain detailed documentation that supports the development and implementation of the plan.

2. **Accrual of Administrative Expenses.** Sponsors must not retain administrative funds in the FDCH bank account from month to month except to cover legitimate, unbilled accruals such as audit costs under engagement, or unpaid accruals such as payroll taxes. It is not appropriate to accrue expenses such as salary or travel when FDCH administrative funds are available to make those payments.

a. All accrued expenses must be properly documented in formal accounting records and must be available at the sponsor's office for review and audit purposes. All accruals shall be supported by a written agreement to secure goods or services for a specified time period and amount. The accounting entries recording accruals, accrued expenses reported on Claims for Reimbursement, receipt of reimbursement for accruals and disposition of accruals must be reconciled monthly. If revenue is received from the Louisiana Department of Education for accrued expenses in the current FDCH Program fiscal year, the expense for the same period shall not be included on a Claim for Reimbursement in a subsequent program year.

i. Proper documentation for accrual of audit costs is:

(a) a signed engagement letter from a certified public accountant addressed to the sponsor that states the period to be audited, the type of audit to be performed, the cost of the audit, and the date the audit report will be completed.

(b) a written schedule listing the amount and the date of each accrual recorded; the accrual amount must be traceable to the amount of actual expenses reported on the monthly Claim for Reimbursement; and

(c) the original invoice and documentation of payment, such as the cancelled check, must be on file.

i. Proper documentation for accrual of payroll taxes is:

(a) time and attendance sheets indicating dates and times worked by FDCH employees for all payroll periods;

(b) cancelled checks proving payment of salary to each FDCH employee for the payroll period;

(c) a worksheet detailing, by FDCH employee, the gross salaries that were earned for each payroll period in the month, the amount of federal and state tax; Medicare and Social Security withheld from each employee for that month, and the total withheld for the month, which is the sponsor's liability for monthly tax payments. This total must be traceable to the amount of accrual recorded and to the amount of actual expenses reported on the monthly Claim for Reimbursement. An additional column on the worksheet should provide the date of salary payment to each FDCH employee, the check number and the amount paid to the employee;

(d) documentation showing actual payment and payment date to the tax authorities for the period accrued.

b. All documented accrued expenses, for which FDCH funds have not been received and for which no payment has been made, must be recorded as receivables

and payables on the sponsor's formal accounting records on September 30 of that program year. An accrued liability, for which final disposition has not been made in the sponsor's formal accounting records as of September 30 of the current program fiscal year, shall not be reported as an expense on a Claim for Reimbursement in a subsequent fiscal year. Final disposition of prior year accrued liabilities must be recorded in the sponsor's formal accounting records.

3. **Unearned Administrative Funds.** All unearned administrative funds remaining at the close of the program fiscal year must be returned to the State Agency.

a. Sponsors shall report only allowable paid administrative expenses and legitimate accruals on the monthly Claim for Reimbursement.

4. **Interest on Advanced Payments.** Sponsors may retain all interest earned on FDCH funds as long as the interest is used to support the FDCH Program and to meet all other criteria for allowable program costs.

5. **Leases and Contracts.** The State Agency must approve all leases and contracts, real or implied, between the sponsor and second parties prior to enactment and all purchases of \$500 or more. Three detailed quotes for purchases of \$500 or more must be obtained by the sponsor and kept on file in the sponsor's office.

a. No sponsor can contract with sponsor employees, board members, or their family members using FDCH administrative funds.

6. **Disposition of Property Purchased with FDCH Funds Upon Termination of Participation.** All FDCH sponsors must comply with State and Federal property management requirements when the acquisition cost has been charged, in whole or in part, to the FDCH Program.

#### D. Sponsor Staff.

1. **Work Hours and Days.** A sponsor employee may be paid a maximum of eight hours per day on weekdays between the hours of 6 a.m. and 8 p.m. with FDCH funds. FDCH funds may not be used to pay employees for work on Saturdays, Sundays or official State Agency or sponsor holidays. All employee's salaries must be based on time sheets filled out daily by the employee. The time sheet must indicate both the time the employee arrives at work and leaves work each day.

2. **Restrictions on Outside Employment.** Sponsors must have written policies restricting other employment of employees which interferes with their FDCH Program responsibilities and duties. Those policies must include the following policies below.

a. The sponsor administrator (e.g., Executive Director, Director, etc.) must be a full-time employee of the sponsoring institution and may not be employed by an outside entity during the sponsor's hours of operation.

b. If any employee is employed in another job in addition to the one with the sponsoring institution, the total amount of hours worked in both jobs may not exceed 12 hours per day.

3. **Salaries.** Salaries for all sponsoring institution employees must be in line with the average salaries for comparable positions in other nonprofit agencies in the service area.

4. **Providers Not Active in Sponsor Operations.** Individuals shall not be actively engaged in the day-to-day operations of any sponsor, either full or part-time, and

participate in the FDCH Program as a provider. Board members are not affected by this policy, since they are not involved in the day-to-day operations of the sponsor.

5. Employment of Minors. The following requirements are mandatory for sponsors who employ minors.

a. In order to be paid with FDCH funds, the minor must be at least 16 years old.

b. The sponsor must keep on file a work permit or employment certificate for each minor employed.

c. If a minor is employed by the sponsor, Louisiana's Child Labor Law (R.S. 23:151 et seq.) and all other Louisiana Department of Labor rules and regulations pertaining to the employment of minors must be followed.

E. Sponsor Offices. State Agency policies for offices located in or on the same property as private residences are as follows:

1. Physical Attributes. There must be a separate, direct entrance to the sponsor's business office.

a. If the office is located inside a private residence, the office must have a door or wall that separates the sponsor's office from the rest of the residence.

b. In order to assure compliance with Civil Rights requirements, the sponsor must post on display a permanent sign that is visible from the street outside of the residence where the office is located. The sign shall give the name of the sponsor, and that name must be able to be read from the street.

c. There must be a telephone line, separate from the residence telephone, which is listed in the name of the sponsor.

d. The office must contain a secured permanent file cabinet(s) in which FDCH Program and provider records are maintained.

2. Office Hours and Staffing. The sponsor's office shall be open during all hours and days of sponsor operation as listed in the approved sponsor application/agreement. At a minimum, the office shall be open Monday through Friday from 8 a.m. to 4 p.m. Those individuals listed in the approved sponsor application/agreement shall staff the sponsor office at all times during hours of operation.

a. Exceptions. Exceptions to the office hours and staffing policy may be approved by the State Agency on a case-by-case basis. General exceptions to the policy are granted under the following conditions:

3. Program Related Office Closure. Sponsor offices may be closed to conduct FDCH Program related activities such as attendance at State-approved conferences or meetings and provider monitoring and training if the following conditions are met:

a. Except in cases of State-sponsored conferences or meetings, the State Agency must be notified in advance. Sponsors may notify the State Agency either by telephone or in writing. Contact information will be amended as needed and will be communicated by memorandum.

b. A telephone answering machine or some other means by which the sponsor may be contacted shall be used for incoming messages.

4. Staff Absences. Sponsor offices may be staffed by individuals not listed in the approved application/agreement for vacation or personal reasons if the following conditions are met:

a. An adult volunteer or substitute employee must remain in the sponsor's office during the approved hours and days of operation.

b. Except in emergency situations, the State Agency must be notified in advance, in writing, of the sponsor's absence and the name of the person(s) who will staff the office during the sponsor's absence.

5. Non-Program Related Office Closure. Sponsor offices may be closed for vacation or personal reasons if the following conditions are met:

a. All of the sponsor's providers agree in advance, in writing, that they are willing to relinquish their claims for meals served while the sponsor's office is closed.

b. The State Agency is notified in writing, in advance.

6. Telephone Calls. All telephone calls to sponsoring agencies from providers and State Agency staff must be returned within 24 clock hours from the time of the initial telephone call. When answering the telephone during the sponsor's hours of operation, sponsor personnel should answer the telephone using the name of the sponsor.

7. Administrative Overclaims Imposed by the State Agency. If the above stated office hours and staffing policies are not adhered to, providers can not claim meal reimbursement during the absence of sponsor employees; and providers will be allowed to transfer to another sponsor. In addition, the sponsor will be subject to being capped, and the administrative reimbursement for the month in which the violation occurred may be jeopardized.

F. Monitoring. All meal types claimed by a provider must be monitored by the sponsor within each year. If a provider claims breakfast, a.m. snack, lunch, and p.m. snack, each of the four meals must be monitored.

G. Provider Fraud. A provider who has been found guilty of fraud as determined through the court system, including deferred adjudication cases, shall be terminated from participation in the FDCH Program effective with the court sentence.

1. Sponsors shall submit documentation of the final, legal decision to the State Agency within 30 calendar days of receipt by the sponsor of the decision.

H. Discrimination Clause. All sponsor FDCH Program materials - such as flyers, handouts, posters, press releases, etc. - must include the following statement:

1. "This facility is operated in accordance with United States Department of Agriculture policy, which prohibits discrimination on the basis of race, color, sex, age, handicap, religion, or national origin."

a. An abbreviated version of this statement is not acceptable.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2210 (December 2001).

### **§3311. Reimbursement**

#### **A. Administrative Reimbursement**

1. Formula for Administrative Allowance in Regulations. During any fiscal year, administrative costs payments to a sponsor from the State Agency may not exceed the lessor of:

a. actual expenditures for the costs of administering the FDCH Program less income to the program, or

b. the amount of administrative costs approved by the State Agency in the sponsor's budget, or

c. the sum of the products obtained by multiplying each month the sponsor's number of approved providers by the current administrative allowance. The administrative allowance, by regulation, is a different rate for the first 50 providers, the next 150 providers, the next 800 providers and any additional above.

d. During any fiscal year, administrative payments to a sponsor may not exceed 30 percent of the total amount of administrative payments and food service payments for provider operations.

2. Claims for Administrative Reimbursement. Only allowable paid administrative expenses and legitimate accruals may be claimed by a sponsor for reimbursement.

B. Provider Reimbursement. Sponsors must distribute all properly earned provider payments within five working days from receipt of funds from the State Agency.

1. Delinquent distribution will result in the sponsor's being declared seriously deficient in its operation of the Family Day Care Home Program and the sponsor will be subject to termination of program participation.

2. Failure to disburse provider payments within ten working days of receipt of funds will result in recall of all funds for the month in question. All Child Nutrition Program Agreements with the sponsoring institution will be immediately terminated. All other consequences that relate to sponsor termination as specified in Federal Regulation 7 CFR Part 226.6 will also result from this action.

3. The sponsor must make a bank deposit of provider payments no later than the next working day following receipt of the funds. It is the sponsor's responsibility to provide appropriate documentation of both the date of receipt of provider funds and the date of disbursement of those funds to the providers.

4. Provider payment may be denied or suspended by the sponsor when there is sufficient reason to indicate that the provider did not rightfully earn the payment and/or broke any terms of the Provider Agreement. Such denial or suspension of payment must be formally documented, and documentation must be kept on file in the sponsor's office.

5. If a sponsor recovers program funds from a provider or does not disburse the funds, those funds must be returned to the State Agency within three months from the date of discovery of the discrepancy. If the sponsor or provider has initiated legal proceedings involving program payment, the funds need not be returned within the three month period; however, the sponsor must present evidence of the legal proceedings to the State Agency.

6. Reasons for returning provider reimbursement to the State Agency include, but are not limited to, the following:

a. provider moved; sponsor unable to locate her (him);

b. provider check not cashed by expiration date imposed by sponsoring organization;

c. unearned provider payments discovered after claims submitted;

d. ineligible payments due to audit/review.

7. Sponsors shall not claim provider reimbursement for evening snacks or any meals served on Saturdays or Sundays, or official State Agency or sponsor holidays.

8. Meal service may be claimed from the beginning date of participation only if

a. the sponsor has ensured that the provider has maintained daily records of menus, meal counts and attendance since the beginning date; and

b. the sponsor has conducted a successful monitoring visit within the first four weeks of program operation.

9. Meals Provided by Parents. In order for a provider to receive reimbursement for a meal, the provider must provide, at a minimum, each of the identified components in the proper amounts. (Exception: breast milk for infants).

C. Claims for Reimbursement. All Claims for Reimbursement (Form DCH-112) must be submitted to the following address:

1. Louisiana Department of Education

a. Division of Appropriation Control

i. Post Office Box 94064, Capitol Station

ii. Baton Rouge, LA 70804-9064

2. Within this chapter, this division will hereinafter be referred to as the "LDE."

3. The LDE must process a complete and valid Claim for Reimbursement within 45 days from the date of receipt.

4. A sponsor must use a unique invoice number on each Claim for Reimbursement when submitting to the LDE for payment.

a. This unique invoice number must be a maximum of 12 alpha-numeric characters and must be placed in the upper right hand corner of the claim form.

b. The invoice number shall not be duplicated by the sponsor on Claims for Reimbursement that are submitted within the State Agency's fiscal period, which is July 1-June 30.

c. Each invoice number will appear on the check stub in the Invoice Number column. Payments from the FDCH Program will be identified under the Agency column on the check stub as "688."

5. Claims for Reimbursement must be submitted by the 10th of each month and shall cover only FDCH Program operations for the previous month. However, if the first or last month of program operations in any fiscal year contains 10 operating days or less, such month may be added to the appropriate adjacent month.

a. Claims for Reimbursement for the month of October shall not be combined with claims for the previous program year.

b. A final Claim for Reimbursement shall be postmarked and/or submitted to the LDE not later than 60 days following the last day of the full month covered by the claim. Claims for Reimbursement that are not postmarked and/or submitted within 60 days shall not be paid with FDCH Program funds unless the USDA Food and Nutrition Services approves a one-time exception for the sponsor.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2212 (December 2001).

### §3313. Audit/Review

A. Compliance with Federal Audit Requirements. The State Agency is required to ensure that FDCH sponsors are in compliance with Federal audit requirements under Circular A -133 and the USDA program regulations.

1. Audit Requirement. A sponsor that expends \$300,000 or more of Federal funds in a fiscal year must have an audit conducted for that year. The Louisiana Revised Statutes contain additional audit requirements for institutions that receive state or local funds.

2. Reporting to the State Agency. To ensure compliance with Federal audit requirements, the State Agency requires all approved sponsors to report annually to the Division of Nutrition Assistance the total expended, as a recipient or a subrecipient, for each Federal fund source, and the grand total for the sponsoring institution's most recently closed fiscal year. (Refer to Appendix A and B for the Report of Annual Expenditures of Federal Funds Received by Recipients or Subrecipients form and instructions.)

B. Overclaims. The State Agency has the authority to recover FDCH funds that were improperly claimed.

1. Overclaims must be paid to the LDE from a source other than federal FDCH funds, such as the sponsoring institution's general fund. This requirement does not apply to the return of FDCH funds that have not been disbursed by the sponsor to a provider that are repaid to the LDE within the same fiscal year in which they are earned.

2. Overclaims assessed against a sponsor by the State Agency that relate to provider payments may be recovered by the sponsor from the provider.

C. Administrative Cap. Any sponsor may be capped at the current number of eligible providers if found to be significantly deficient in FDCH Program management.

1. Examples of these management deficiencies may include the following:

- a. high error rates in home reviews or claim reviews;
- b. high error rates in the verification process;
- c. inaccurate or missing required information;
- d. inadequate financial records;
- e. failure of the sponsor to follow the FDCH Management Plan; and

f. serious deficiencies in the FDCH Program.

2. This determination may be made as a result of any program review, audit, specific investigation, excessive packet errors, or an excessive rate of failures in the provider inspection process.

3. "Caps" will remain in effect until the sponsor demonstrates its ability to manage the Family Day Care Home Program effectively. This verification may be demonstrated by the findings of a review or audit, by submission of documentation, or by some other method as dictated by the particular circumstances(s) that warranted the implementation of the cap.

D. State Agency Policy for Noncompliance. Refer to Appendix C for a chart that lists the most critical areas of noncompliance that may be counted in a review error rate and/or that may result in overclaims.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2213 (December 2001).

**§3315. State Agency Actions for Noncompliance**

A. The following chart lists the most critical areas of noncompliance which may be counted in a review error rate and/or may result in overclaims. It is organized as follows:

- 1. Column 1 identifies the violations.
- 2. Column 2 describes the resulting State agency action.
- 3. An X mark in Column 3 identifies items which may cause the review or record to be counted in the error rate
- 4. An X mark in Column 4 identifies items which may result in overclaims.

Please be aware that this list is not all inclusive. Areas of noncompliance with federal regulations, policies, and instructions, and with state policies, procedures and instructions which have not been listed on this document may also result in State Agency actions.

**Louisiana Family Day Care Home Program  
State Agency Actions For Noncompliance  
Provider Claim Review**

VIOLATION	STATE AGENCY ACTION	%	\$
1. Invalid fire inspection certificate (i.e., out of date, different address)	Provider ineligible; total overclaim sponsor and provider	X	X
2. Invalid Provider Agreement (i.e., different address, unsigned, undated)	Provider ineligible; total overclaim sponsor and provider	X	X
Inaccurate/Missing Provider Application information	Provider ineligible; total overclaim sponsor and provider	X	X
Noncompliant meal schedule	Disallow meal payment for the child(ren).	X	X
3. Enrollment Form:			
Inaccurate/missing information on child's enrollment form	Child ineligible; disallow payment for the child's meals.	X	X
Claimed meal type not justified by child's hour of care as listed on enrollment form	Disallow meal payment for the child(ren).	X	X
Missing or insufficient handicap documentation	Disallow payment for affected program participant.	X	X
More than 6 current enrollment forms on file (no drop dates)	Disallow entire month's claim for provider and sponsor.	X	X



4.	Meal Count and Attendance Form				
	Unsigned or undated provider and sponsor.	Disallow entire month's claim for	X	X	
	Child's name not listed for that child.	Disallow entire month's payment	X	X	
	Unapproved meal type claimed meals.	Disallow payment for the unapproved	X	X	
	Unapproved day(s) of service claimed	Disallow day(s) of service.	X	X	
	<b>VIOLATION</b>	<b>STATE AGENCY ACTION</b>	<b>%</b>	<b>\$</b>	
	Resident child claimed for meals without enrolled nonresident child claimed for same meal(s)	Disallow resident child for meals served without nonresidents.	X	X	
	Miscount from provider records to sponsor claim	Adjust payment accordingly.	X	X	
	Unapproved day(s) of service claimed	Disallow day(s) of service.	X	X	
	Resident child claimed for meals without enrolled nonresident child claimed for same meal(s)	Disallow resident child for meals served without nonresidents.	X	X	
	Miscount from provider records to sponsor claim	Adjust payment accordingly.	X	X	
5.	Menu Record:				
	Noncompliant menus (> 5%) children claimed.	Disallow noncompliant menus for all	X	X	
	Noncompliant menu (< 5%) children claimed.	Disallow noncompliant menus for all	X	X	
	No menu record(s)	Disallow all children claimed for the meal(s).	X	X	
	No medical documentation for food substitutions	Disallow all meals not meeting component requirements.	X	X	
6.	Meal service observed on monitoring review different than that claimed by provider	Disallow payment for the day of service.	X	X	
7.	Current and complete Preapproval Form not on file	Disallow entire month's claim and sponsor's payment.	X	X	
8.	Required provider eligibility forms (e.g., Application, Agreement, Fire Inspection Report, etc.) not on file in sponsor's office	Disallow entire month's claim and sponsor's payment.	X	X	
9.	HEDA:				
	Missing/inaccurate information on HEDA	Disallow meals for all affected child(ren).	X	X	
	Missing/insufficient documentation of household income or categorical eligibility (does not apply to nonresident children qualifying for Tier I reimbursement)	Disallow meals for all affected child(ren).	X	X	
	Failure to list all household income	Disallow meals for all affected child(ren).	X	X	
	Missing statement(s) of payment or nonpayment from parents	Disallow meals for all affected child(ren).	X	X	
	<b>VIOLATION</b>	<b>STATE AGENCY ACTION</b>	<b>%</b>	<b>\$</b>	
10.	Employment/Enrollment Verification				
	Missing employment verification for appropriate time period	Disallow payment for affected child(ren).	X	X	
	Parent not employed as recorded at time of reported employment verification	Disallow meals for all affected child(ren).	X	X	
	Parent reports that child(ren) is (are) not cared for by provider.	Disallow payment for affected child(ren). Sponsor must investigate for fraud.	X	X	
	Parent reports that child(ren) is (are) not present when meal(s) claimed	Disallow payment for affected child(ren). Sponsor must investigate for fraud.	X	X	

11. Tiering				
Missing/Incomplete Tier Determination Form (DCH 115)	Disallow difference between Tier I and Tier II rates for entire period of time provider was not assigned a correct tiering status. Disallow sponsor payment for test month.	X		X
Inaccurate tier determination (incorrectly tiered as tier I rather than tier II)	Disallow difference between Tier I and Tier II rates for entire period of time provider was not assigned a correct tiering status. Disallow sponsor payment for test month.	X		X
Inaccurate tier determination (incorrectly tiered as tier II rather than tier I)	Sponsor must immediately correct tier determination and submit copy of corrected Tier Determination Form to state. Disallow sponsor payment for test month.	X		X
Missing, incomplete, or invalid tiering backup documentation	Disallow difference between Tier I and Tier II rates for entire period of time provider was not assigned a correct tiering status. Disallow sponsor payment for test month.	X		X

**State Agency Actions For Noncompliance  
Provider Home Review**

VIOLATION	STATE AGENCY ACTION	%		\$
Provider not participating as scheduled until a documented successful sponsor-conducted following-up monitoring visit.	Disallow payment for the day of service and	X		X
1. Service schedule noncompliant (different than recorded schedule)	Cite and require corrective action; disallow payment for the meal; require follow-up	X		X
2. Menu records noncompliant	Disallow payment for all noncompliant meals	X		X
3. Menu observed noncompliant	Disallow payment for meal observed	X		X
4. Meal count and menu records not being kept daily	Disallow payment of non-recorded days from first of month to day prior to review. Require sponsor-conducted follow-up visit within 5 working days	X		X
5. Meal count and attendance recorded in advance	Disallow payment for days recorded in advance; require sponsor-conducted follow-up visit within 5 working days, documenting training in record-keeping requirements and penalties for fraud.	X		X
6. Program records not given to provider	Require sponsor to give all providers required program records (e.g. monitoring reports, application, agreement, etc.). If sponsor has not done so by next state or federal conducted review, an overclaim for sponsor payment(s) will be assessed.	X		X
7. Registry Standards:				
Imminent threat to the health or safety of the children; inoperable smoke alarm or fire extinguisher, direct refusal to comply with civil rights standards, etc.	Provider ineligible as of day of review until compliance is documented by one sponsor follow-up visit.	X		X
More than six children at one time	Provider ineligible as of day of visit until a documented successful sponsor-conducted follow-up visits document compliance. If the additional children found are resident children, provider is ineligible from date provider became noncompliant once the attendance of her own children is considered.	X		X

8.	Parent provided one or more of required food components. (Exception: breast milk for infants)	Disallow payment of child(ren) for day of service until correction documented.	X	X
9.	Monitoring or training noncompliant payments for test month.	Verify in sponsor files; disallow sponsor	X	X

**State Agency Actions For Noncompliance  
Sponsor -Related Violations**

VIOLATION	STATE AGENCY ACTION	%	\$
1. Monitoring:			
Visits not within time-frames	Disallow sponsor payments for test month.	X	X
All meal types claimed not monitored within a year	Disallow sponsor payments for test month.	X	X
2. Financial/General			
Less validated administrative expenses than paid through claim process	Reduce administrative payment accordingly.	X	X
Unallowable/unsubstantiated expenditures	Reduce administrative payment if necessary. Cite and require corrective action.	X	X
Travel not appropriately documented	Adjust payment accordingly.	X	X
Time and attendance not appropriately documented	Adjust payment accordingly.	X	X
Claim inaccurate	Adjust payment accordingly.	X	X
Noncompliant purchasing, leases, or contracts	Reduce administrative payments if necessary. Cite and require corrective action.	X	X
Failure to comply with terms of Sponsor Application/Agreement and/or inadequate documentation to substantiate terms of Sponsor Application/Agreement	Assess sponsor overclaim and/or require corrective action.	X	X
Failure to correct and/or failure to maintain corrective action of previously-cited deficiencies	Sponsor may be declared seriously deficient with possibility of a cap on enrollment or termination from the CACFP.	X	X

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2214 (December 2001).

**§3317. Allowable Costs**

A. To be allowed for reimbursement under the FDCH Program, costs incurred by the sponsor must meet the following criteria.

1. Actual. Costs must represent actual operating or administrative costs incurred in the normal course of conducting the program.

a. Accrual or Cash Basis Accounting. Costs may be reported on an accrual basis (expenses and income recorded when incurred) or cash basis (expenses and income reported when paid/received); however, the sponsor's accounting system must treat costs consistently.

i. When reimbursement is paid on the lesser of meals times rates or cost, the final Claim for Reimbursement for the fiscal year must reflect costs on an accrual basis. This policy will require that sponsors using a cash basis

(a). report any cost incurred but not yet paid by the end of the current fiscal year, and any income earned

during the current fiscal year, but not received by September 30, on the final claim of the FDCH Program fiscal year;

(b) make appropriate adjustments to ensure any accrued costs that have been reported are not reported again when actually paid, and any income reported in the prior fiscal year is not reported when the income is actually received.

ii. Sponsors must resolve all accrued costs upon receipt of the final reimbursement from the LDE for each fiscal year. Accrued costs that are not paid by the sponsor by the closing of the fiscal year are not considered to be actual expenses.

2. Budgeted. Costs must be included in the approved administrative budget for the time period in question to be allowable.

a. Contracts and Leases. All contracts and leases, real or implied, that are entered into by the sponsoring institution and that are to be payable with FDCH Program funds must receive prior written State Agency approval.

3. Other Requirements. Costs must:

a. be necessary and reasonable for proper and efficient administration of the FDCH Program;

b. be authorized or not prohibited under State or local laws or regulations;

c. conform to any limitations or exclusions set forth in State or Federal laws, regulations, circulars or instructions as to types or amounts of cost items;

d. be accorded consistent treatment through the application of generally accepted accounting principles;

e. not be assignable or included as costs to any other Federally financed program in either the current or prior period;

f. be the net of all applicable credits;

g. be properly allocated; and

h. be adequately documented.

**B. Examples of Allowable Costs are:**

1. Accounting

2. Audits

a. Charges to the FDCH Program for organization-wide audit costs must be based upon the percentage of the FDCH funds to the total Federal funds expended by the sponsoring institution during the fiscal year to be audited. Any audit costs incurred by sponsoring institutions to meet other State, Federal, local, or institution needs are unallowable costs to FDCH Program funds.

b. Sponsors who operate multiple programs can prorate audit costs according to the percentage of total expenditures of the agency (excluding provider payments).

c. If the State Agency approves audit costs in the sponsor's FDCH budget, the State Agency reserves the right to approve the sponsor's independent auditor prior to engagement for audit services.

3. Bank Charges

4. Bonding Costs

5. Business Cards

6. Communications

a. The costs incurred for equipment and services, such as telephone, telegraph, FAX, beeper, postage, and messenger services for FDCH Program purposes, are allowable.

b. In circumstances in which charges are incurred per call, such as with cellular telephones or with long distance calls, only those calls that are related to the FDCH Program are allowable.

c. Communication services must be registered in the name of the sponsor; and all telephone, fax, beeper or cellular numbers to be paid with FDCH Program funds must be included in the approved sponsor administrative budget.

7. Computer equipment (Prior written State Agency approval is required.)

8. Depreciation

9. Dues, Subscriptions, and Professional Activity Costs. (Only if related to the FDCH Program and approved in writing by the State Agency.)

10. Fringe Benefits

11. Labor

12. Legal (Prior written State Agency approval is required.)

a. Exception: Legal fees associated with the prosecution of a claim against the Federal Government are unallowable. Administrative costs such as for an appeal, and some criminal and civil proceedings

13. Meetings and Conferences (Prior written State Agency approval is required.)

14. Insurance (Prior written State Agency approval is required.)

15. Inventory costs

16. Payroll Preparation

17. Personnel Administration

18. Printing and Reproduction

20. Records Retention Costs

21. Space and Facilities Costs (Prior written State Agency approval is required.)

22. Taxes

23. Travel

a. All out-of-state travel must be submitted for approval by the State Agency no later than two weeks prior to the beginning date of the travel.

b. State travel regulations must be followed for all sponsor employee travel. All travel receipts must be kept on file in the sponsor's office.

c. Mileage. Documentation to support mileage charged to the FDCH Program must include a travel log for each FDCH employee.

i. The log must indicate the date(s) of travel, the driver's name, the origin and destination of each trip, beginning and ending odometer readings, the purpose of the travel, and the total miles traveled.

ii. Prior to payment to the employee, these records must be signed by a responsible sponsor official and reviewed to ensure that costs are reasonable and accurate.

iii. Mileage reimbursement is not allowed for travel between an employee's residence and the office.

d. For overnight travel, receipts for all travel expenses must be maintained on file in the sponsor's office.

**C. Examples of Unallowable Costs**

1. Bad Debts (e.g., overdrafts, late payment charges)

2. Bonuses to employees

3. Contingencies

4. Contributions

5. Donations

6. Entertainment

7. Fines and penalties

8. Over Claims

9. Political Costs

**AUTHORITY NOTE:** Promulgated in accordance with 7 CFR 210-245.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 27:2217 (December 2001).

**§3319. Provider Participation**

A. Family Day Care Home (FDCH) providers who care for up to six children in their private homes may participate in the FDCH Program if they meet program eligibility requirements and are enrolled through an approved sponsoring agency.

B. Eligibility Requirements. The FDCH Program eligibility requirements for a provider are summarized as follows:

1. Minimum Age

a. Persons must be at least 18 years of age or be legally emancipated to enroll. Some examples of legally acceptable emancipation are judicial, marriage, and parent's notarial act.

2. Facility Approval

a. The home used for childcare must be the provider's residence.

b. The home cannot be used for another purpose that would conflict or duplicate the service of childcare.

c. The home must pass a pre-approval inspection by the sponsoring institution.

d. The sponsor is responsible for assessing, in both the pre-approval process and in each monitoring visit, the capability of the day care home facility and the caregiver to provide adequate childcare.

i. The home must have the necessary equipment to provide child care and meal service,

ii. The child care environment may not present a threat to the health or safety of the children.

iii. The age and number of children must be considered in determining the number of caregivers needed in the home.

e. The home must be certified by the Louisiana Office of State Fire Marshal.

3. New Provider. The following policies govern provider approval and registration.

a. A new provider will be approved to begin FDCH Program participation no earlier than the first of the month in which the packet has been reviewed by the State Agency and found to be complete and correct.

b. A new provider is one who:

i. has never participated in the Family Day Care Home Program before;

ii. has been dropped or terminated from participation in the Family Day Care Home Program and subsequently wishes to begin participation again;

iii. has experienced more than a three month lapse in program eligibility; and

iv. has signed an agreement with a different FDCH sponsor after his/her period of eligibility has expired.

4. Recertifiable Provider

a. A recertifying provider will be approved to begin FDCH Program participation as early as the first of the month in which a complete and correct packet is received in the State Agency.

b. A recertifiable provider is one who:

i. has previously been approved to participate and has experienced no more than a three month lapse in program eligibility;

ii. has transferred sponsorship with State Agency approval during his/her period of eligibility;

iii. has a change in provider using the same facility and operations as previously approved; and

iv. has a change in address with a new inspection of the new facility.

5. Provider Employment

a. The provider cannot have any other job besides childcare unless such employment is specifically approved in advance by the State Agency.

6. Enrollment

a. The provider must complete an FDCH Program Application/Agreement packet. The sponsor must submit the provider packet to the State Agency.

b. Registration and Approval. The State Agency must register and approve the provider for FDCH Program participation.

c. The following policies govern provider enrollment:

i. Dual Participation. The provider cannot be under an agreement with more than one sponsor at a time.

ii. Affiliation. The provider cannot be a part of the daily operations of any sponsoring institution.

iii. Social and Health Needs. The provider must allow parents and staff from the sponsor, State and Federal government to visit the day care home without prior notice.

iv. Civil Rights: Provider operations must be nondiscriminatory.

v. Nonresident Child(ren). The provider must care for at least one nonresident child who is properly enrolled and approved to participate in the FDCH Program.

7. Employment of Parents and Guardians. At least one parent or guardian with whom enrolled nonresident children participating in the FDCH Program reside must be employed or enrolled in school or a formal job search program.

a. Sponsors must conduct verification of employment, school or job search activities for parents or guardians of all enrolled children when a new provider is enrolled in the FDCH Program. After the initial verification, the sponsor is required to conduct verification during the following times:

i. at the provider's recertification time;

ii. when a new child is enrolled;

iii. when the provider moves; and/or

iv. when there is provider change.

b. The sponsor is responsible for the accuracy of the employment, school, or job search information only at the required time when the information is verified.

c. Verification of Employment. The Employment Verification Form (DCH-114) or the employment documentation described later in this paragraph must be completed for all new providers and for those in situations as listed in Subparagraph a. i. - iv above.

i. All information on the form must be completed for at least one parent or guardian with whom each nonresident enrolled child resides. The information should be completed for the parent or guardian generally responsible for taking the child to and from the family day care home.

ii. If the sponsor chooses not to complete the DCH-114, the parent or guardian's employment or enrollment in school or job search activities must be documented by the employer or school/job search official on company (school) letterhead.

iii. For parents or guardians who are self-employed, the sponsor must have on file from the parent a notarized statement attesting to the nature of the self-employment.

iv. Sponsors must continue to verify all information on the Enrollment Form (DCH-2) for each child at recertification time or when the provider's address changes. If all of the information remains the same, the sponsor must indicate that fact by initialing and dating the form. If any of the information remains the same, the sponsor must indicate that fact by initialing and dating the form. If any information on the DCH-2 changes, the information must be edited with the sponsor's initials and date of the edit, or a new DCH-2 must be completed. If there is a provider change or the provider moves, a new DCH-2 must be completed for each child. The DCH-2 will still be retained in the sponsor's office; the DCH-2 must be available for review by State staff during the sponsor's hours of operation.

8. Meal Service Schedule.

a. Three hours shall elapse between the beginning of one meal service and the beginning of another. At least two hours shall elapse between the beginning of a meal service and the beginning of a supplement.

b. Major meals must be scheduled between the following timelines:

- i. Breakfast 6-10 a.m.
- ii. Lunch 11 a.m.-1:30 p.m.
- iii. Supper 5 p.m.-8:00 p.m.

iv. The last meal or snack of the day and/or shift that is claimed for a child must be served at least 30 minutes prior to the time the child leaves the home, according to the attendance schedule recorded on the Enrollment Form (DCH-2).

c. A meal schedule must indicate a specific time of meal service rather than a range of service time.

i. Meal service 15 minutes before or after the scheduled time of service will be acceptable when found in monitoring reviews as long as the required two hours between a snack and a major meal and three hours between major meals are still accomplished.

ii. Providers should retain some evidence of the meal service if it is served early so that, if the home is monitored, the reviewer can see the foods that were served.

iii. Up to two different service times per meal type may be established to serve children who arrive or depart at different times. For example, if one group of children arrives for breakfast at 7 a.m. and another group arrives at 8 a.m., a 7 a.m. service time can be approved.

d. Meals may not be claimed on weekends or official State Agency or sponsor holidays.

9. Income Status of Reimbursement. FDCH reimbursement is considered income to the provider when completing the Household Eligibility Determination Application (HEDA). As income, the reimbursement can also affect all public assistance programs which require the reporting of the recipient's income, such as Food Stamps, Social Security Insurance, TANF, etc. It is the provider's responsibility to report this income to any relevant government agencies by which the provider is affected. The sponsor's responsibility is to inform the provider of the fact that the FDCH reimbursement is considered income. This responsibility is accomplished with the issuance of the Provider's Handbook.

10. Military Benefits.

a. Military benefits received in cash, such as housing allowance for military households living off-base, food allowance and uniform allowance, must be considered as income. Countable income is all money a household receives as actual cash. Housing subsidies received as cash allowances by households living off-base may not under any circumstances be considered as in-kind housing. The value of on-base housing is to be excluded from a household's gross income. In-kind benefits, including housing, are benefits which are of value, but which are not provided to the household in the form of cash.

b. To ensure that military allowances are included as income on the HEDA and that proper eligibility determinations are made, sponsoring institutions should record allowances and identify them under the "All Other Income" column of the application and rank and years of

service could be shown under the "Monthly Earnings from Work" column.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

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Chapter 35. Glossary

§3501. Definitions/Abbreviations

Accrual Basis Accounting Cthat revenue is reported in which the service (or sale) occurs regardless of when the payment is received. Liabilities are reported in the period in which they are incurred regardless of when the payment is made.

Adopted Child Ca child for whom a household has accepted legal responsibility and who is considered to be a member of the household.

Aggregate Purchase Amount Cthe dollar value of items purchased from a single source for a bid period.

Allowable Costs Cauthorized expenditures, both operating and administrative, that are necessary and reasonable for proper and efficient administration of the school food service programs.

Americans With Disabilities Act of 1990 (P.L. 101-336) Cprohibits discrimination on the basis of disability.

Approved Vendor List Ca list of vendors who have demonstrated the ability to perform successfully under the terms and conditions of a proposed procurement, consideration being given to contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

Attendance Factor Ca percentage developed no less than once each school year to account for the difference between enrollment and attendance at any given time. An attendance factor is calculated by dividing the average daily attendance for a period of time by the total enrollment for the same period of time. The attendance factor may be developed by the SFA, with State approval, or may be developed by the State Agency. A SFA shall assume that all children eligible for free and reduced priced meals attend school at the same rate as the general school population.

Authorized School Food Authority Representative Ca person who has signed the agreement with the State Agency to participate in the National School Lunch Program and School Breakfast Program.

BESE Can abbreviation for the State Board of Elementary and Secondary Education.

Biennial Audit Can audit conducted every second year covering every year.

Breakfast Ca meal that meets the nutritional requirements of the school breakfast pattern as designated in USDA, FNS, 7CFR, Part 220.8 and that is served to the child at or close to the beginning of the child's day at school.

Cash Basis of Accounting Crecording income and expense only when actual cash changes hands. This process means that the income is recorded when money is received and that expenses are recorded when the payment is made.

Central Kitchen Ca kitchen in which food is prepared to be transported and served at another school, or where food is to be served to children who are brought from another school in addition to the children in attendance at the site.

Certified CNP Director/Supervisor Cone who has met the requirements for certification as set forth in Bulletin 746:

Louisiana Standards for State Certification of School Personnel. Certification has been a prerequisite for employment as a CNP director/supervisor since January 1, 1977. Certification can be obtained in either of two areas of specialty: food service or nutrition.

**Certified Manager, Food Production Manager/Assistant Manager** the recipient of the certification issued by the Louisiana State Department of Education LDOE upon one's successful completion of the prescribed training program.

**Certified Product Formulation Statement** a certified Product Formulation Statement form, signed and dated by the food manufacturer, can be utilized to document the contribution a commercially prepared food item makes toward meeting meal pattern requirement. Unlike the CN labeled product, the Certified Product Formulation Statement provides no warranty against audit claims. However, should an audit exception be made following an analysis of the product, the SFA may have a legal recourse against the food manufacturer submitting the signed statement.

**Child** a student of high school grade or under enrolled in a school in Louisiana, including a student participating in a school program established for the mentally or physically disabled or students enrolled in any public or nonprofit private classes if preprimary grade when they are conducted in aforementioned schools, or a person under 21 chronological years of age enrolled in a public or nonprofit residential child care institution.

**Child Nutrition (CN) Labeling Program** the Child Nutrition (CN) Labeling Program is a voluntary technical assistance program for the Child Nutrition Programs administered by the Food and Nutrition Service (FNS) in conjunction with the food Safety and Inspection Service (FSIS), Agriculture Marketing Service (AMS), and National Marine Fisheries Service. This program essentially involves review of a manufacturer's recipe or product formulation to determine the contribution a product makes toward meal pattern requirements. The CN labeled product provides a warranty against audit claims if the product is used according to the manufacturer's directions. This warranty applies only to the CN labeled portions, not to the entire meal. Those manufacturers who are interested in having their products analyzed may contact USDA Food and Nutrition Service, Nutrition and Technical Service Division; 3101 Park Center Drive, Room 607; Alexandria, Virginia 22302. Telephone (703) 305-2556.

**Claim for Reimbursement (SFS-8A, 8B, and 8C Forms)** the forms to be completed in order to claim Federal reimbursement for meals served during the month of operation.

**CNP** Can abbreviation for Child Nutrition Program.

**Code of Conduct** standards of conduct that shall govern the performance of the officers, employees or agents in contracting for payment and expending program funds. Federal procurement regulations require each SFA to maintain a written code or standards of conduct.

**Collateral Contract** Can oral confirmation of a household's circumstances by a person outside of the household.

**Competitive Negotiation** Ca procurement method that may be used whenever competitive sealed bids are determined to be inappropriate or unfeasible, such as for professional

services. Requests for proposals must be solicited from an adequate number of qualified sources, must be publicized, and must identify all significant evaluation factors. The SFA must provide a mechanism for technical evaluation of the proposals received. This type of procurement method must be documented.

**Competitive Sealed Bids** the procurement method, commonly called formal bid procedure, required by Federal regulations whenever the aggregate purchase amount exceeds \$10,000. Purchase by competitive sealed bids requires

- a public advertisement of the invitation to bid;
- bid solicitations from an adequate number of known suppliers;
- a clear description of the items or services needed; and
- the public opening of bids.

**Complete Meal** Ca meal that contains the number of menu components that constitutes a reimbursable meal.

**Contract**

- a legally enforceable agreement between two (or more) parties in which each promises to do (or not to do) something;
- the writing or document containing such an agreement.

**Contract Extension** Ca modification of a contract to extend the bid prices beyond the ending contract date. Since extending a bid is a modification of the contract, the grantee must perform some form of cost or price analysis. Permission to extend a contract must be secured from the State Agency; permission is granted only under special circumstances.

**Cost of Food Used** the dollar value of the beginning inventory, minus/plus the value of inventory adjustments for transfers or inventory errors, plus the dollar value of food received during the month of reporting minus applicable credits, less the value of ending inventory. Credits to the cost of food used include returns to vendors, allowances on invoices for unacceptable food, cash discounts, and rebates.

**Current Income** C income received by the household during the month prior to application for participation in the National School Lunch Program. If such income does not accurately reflect the household's annual rate of income, income shall be based on the projected annual household income. If the prior year's income provides an accurate reflection of the household's current annual income, the prior year may be used as a base for the projected annual rate of income.

**Daily Food Production Record (SFS-6 Form)**, also called the **Menu Worksheet**, C the daily production record completed for lunch and for breakfast to detail the number of meals planned and served, the count of plates used to serve meals, the menu components served, the serving size(s) of each component, the amount of ingredients for each component, the number of extra servings, and the amount of each food left at the end of service.

**Daily Participation Report (SFS-7 Form)** C the form to be completed daily for each participating school (including a report for each satellite school) reporting income and participation date by category. These forms are used at the end of the month to complete the Claim for Reimbursement (SFS-8 and 8C forms).

**Direct Certification**Ca method of automatically establishing the eligibility of school children entitled to free meals or milk because of their participation in the Food Stamp Program, Aid to Families with Dependent Children (FITAP), or Food Distribution Program on Indian Reservations (FDPIR).

**Division of Nutrition Assistance**Cthe division of the Louisiana Department of Education, Office of School and Community Support that supports the National School Lunch Program.

**DNACan** abbreviation for Division of Nutrition Assistance.

**Drop Delivery**Ca delivery to one location within the SFA, such as a central warehouse. The SFA assumes responsibility for delivery to the schools.

**Edit Check**Ca system in which daily counts of free, reduced, and paid student meals for individual schools and SFAs are compared to the number of eligible students in each category, respectfully, times an attendance factor to ensure accurate meal counts.

**EEO Clause**Ca provision required in instructions to the vendors for contracts over \$10,000. The provision or clause requires the vendor's compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations 41 CFR Part 60.

**Economic Unit**Ca group of related or unrelated people who share housing and/or all significant income and expenses of its members.

**Emancipated Child**Ca child who lives alone or as a separate economic unit and who is considered "a household."

**Equipment**Can article of nonexpendable, tangible personal property having a useful life of more than one year, which does not lose its identity through fabrication or incorporation into a different or more complex unit, and an acquisition cost that equals or exceeds \$1000.

**FDP**Can abbreviation for the Food Distribution Program.

**Food Stamp Household**Can individual or group of individuals currently certified to receive assistance as a household under the Food Stamp Program.

**Foreign Exchange Student**Ca foreign student considered to be a member of the household in which he/she resides: i.e., the household hosting the student.

**Formal Bid**Ca common name for the purchase method of using competitive sealed bids. A formal bid, or competitive sealed bid, is required by Federal and State regulations when the aggregate purchase amount exceeds \$10,000.

**Foster Child**Ca child living with a household but retaining the legal responsibility of the welfare agency or county/parish.

**Free Meal**Ca meal served to a child from a household eligible for such benefits under USDA, FNS, 7 CFR Part 245. Neither the child nor any member of the household is required to pay or to work for the meal.

**Free not Section 11 Meals**Cto those meals served to students who do not qualify for free or reduced priced meals but who are given free meals as partial or full payment for working in the school food service department.

**General Fund**Ca category of funds unrestricted or not designated for a particular use but which may be used for

many purposes. School boards usually use "fund accounting" and have both restricted and unrestricted funds.

**Generally Accepted Accounting Principles (GAAP)**CCA technical accounting term that encompasses the conventions, rules, and procedures necessary to define an accepted accounting practice at a particular time. Generally, GAAP, for government, is promulgated by the Governmental Accounting Standards Board (GASB) in the Codification of Governmental Accounting and Financial Reporting and subsequent GASB pronouncements.

**Generally Accepted Government Auditing Standards**CGovernment Auditing Standards - Standards for Audit of Governmental Organization, Programs Activities, and Functions, (1988) issued by the United States General Accounting Office.

**Gross Income**Call money earned before such deductions as income taxes, employee's social security taxes, insurance premiums, and bonds.

**Household**Ca group of related or unrelated individuals who are not residents of an institution or boarding house, but who are living as one economic unit.

**IEP**Can abbreviation for a student's Individualized Education Program. A written statement of specially designed instruction for each student with an exceptionality, the IEP is developed by a group of qualified education personnel and the parent/guardian of such student.

**Income Eligibility Guidelines**Cthe family-size income levels prescribed annually by the USDA for use by States in establishing eligibility for free and reduced price meals. The free guidelines are 130 Percent of Federal poverty guidelines and the reduced price guidelines are 185 percent of Federal poverty guidelines.

**Independent Auditor**Cthe State Legislative Auditor or certified public accountant who meets the independence standards specified in generally accepted government auditing standards.

**Initial Equipment**Cthe basic preparation, storage and service equipment that a SFA is required to have to begin a food service program.

**Institutional Child**Ca child who resides in a residential-type facility within the state.

**Internal Controls**Cthe plan of organization and methods and procedures adopted by management to ensure that resource use is consistent with laws, regulations, and policies; resources are safeguarded against waste, loss, and misuse; and reliable data are obtained, maintained, and fairly disclosed in reports.

**Joint Custody Student**Cone who physically changes residence: i.e., weekly, monthly. The student is part of the household where he/she resides.

**Loan**Ca sum of money that has been lent for temporary use and that must be repaid. Refer to the section entitled "Repayment of Loans" for a discussion on allowable costs.

**Louisiana School Food Service Training Program**Ca program composed of three levels or phases. Phase I, which is designed for all food service technicians/employees, consists of 49 audiovisual units. Phases II and III are designed for food service manager applicants. Phase II consists of 22 written self-instructional units. Phase III is a one-week training course taught by the State Agency staff.

**Lunch**Ca meal that meets the school lunch pattern for specified age/grade groups of children as designated in



USDA, FNS, 7CFR Part 210.10 and that is served at or about midday between the hours of 10:00 AM and 2:00 PM.

**LDAFCan** abbreviation for the Louisiana Department of Agriculture and Forestry.

**LDOECan** abbreviation for the Louisiana Department of Education.

**Meal Equivalent FactorC**the average cost of the meal from the prior school year including the value of commodities.

**Net Cash ResourcesC**all monies, as determined by the State Agency's established accounting system, that are available to or have accrued to the school food authority's nonprofit school food service program at any time, less cash payable. Such monies may include, but are not limited to, cash on hand, cash receivable, investments, earnings on investments, and cash on deposit.

**Noncompetitive NegotiationCa** procurement method that may be used when no price quotes can be obtained. It may be used when the item is available from a sole source; when a public emergency exists and the urgency for the item will not permit a delay for competitive solicitation; or when, after solicitation from a number of sources, competition is determined to be inadequate. If the cost of the item is more than \$10,000, State Agency authorization must be secured.

**Nonpricing ProgramCan** institution in which there is no separate identifiable charge made for meals served to participants.

**Nonprofit** (when applied to school or institutions eligible for the school food service programs)**C**exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1954, as amended.

**Nonprofit School Food ServiceC**all food service operations conducted by the School Food Authority principally for the benefit of school children, all of the revenue from which is used solely for the operation or improvement of such food services.

**NSFCan** abbreviation for the National Sanitation Foundation.

**NSLPCan** abbreviation for the National School Lunch Program.

**Offer Versus Serve (OVS)C**that high school students may refuse one or two of the required five food items at lunch. While this form of serving is mandatory in high school, it is optional for middle, junior or elementary schools at lunch. SFAs may choose to allow students in middle, junior or elementary schools to decline two items or one item. OVS is optional for all grade levels at breakfast from which one food item may be declined of the four required food items. Students must be allowed to make the decision of which food item or items they will decline.

**Operating TransferC**money transferred "in" to the school food service account or cost center from another fund is not repaid and is not a reimbursement for expenditures. Regulations do not permit school food service funds to be transferred "out" to another fund.

**Overt IdentificationCan** act that openly identifies children as eligible for free or reduced price benefits in the National School Lunch Program, After School Snack Service, School Breakfast Program, or Special Milk Program.

**PAL (Planned Assistance Levels)C**the dollar value of USDA commodities allocated to a school food authority.

**Paid MealCa** meal served to a child who is not eligible for or who elects not to receive free or reduced price meal benefits. The Federal government subsidizes each paid meal with both general cash assistance and donated foods.

**PayableC**salaries earned but not paid and/or items or services received but not paid.

**Pricing ProgramCa** program in which a separate identifiable charge is made for meals served to participants.

**Provisional CNP SupervisorCa** person to whom provisional certification has been issued subsequent to his/her having been employed as an acting CNP director or supervisor. This certification, valid for one year, is renewable each year thereafter upon presentation of six semester hours of applicable credit toward completion of all requirements for permanent CNP certification.

**Public AccountantCan** individual who meets the qualification standards included in generally accepted government auditing standards for personnel performing government audits.

**RCCICan** abbreviation for Residential Child Care Institutions.

**RecipientCan** any person or government department, agency, or establishment that receives Federal financial assistance to carry out a program through the Louisiana State Department of Education, but does not include an individual that is a beneficiary of such a program.

**Reduced Price MealCa** meal served to a child from a household eligible for such benefits under USDA, FNS, 7CFR Part 245. The child or the household pays \$.40 or less for lunch and \$.30 or less for breakfast.

**Reimbursable BreakfastCa** meal that meets the school breakfast pattern requirements as specified in CFR 7 Part 220.8 (a), and (b).

**Reimbursable LunchCa** meal that meets the school lunch pattern requirements as specified in CFR 7 Part 210.10.

**ReimbursementC**Federal cash assistance payable to School Food Authorities for breakfasts and lunches meeting the requirement of USDA, FNS, 7CFR Part 220.9 and 210.10 served to eligible children at rates assigned by the State Agency.

**Revenue** (when applied to nonprofit school food service)**C**all monies received by or accruing to nonprofit school food service in accordance with the State Agency's established accounting system including but not limited to children's payments, earnings on investments, other local revenues, State revenues, and Federal cash reimbursements.

**SBESECan** abbreviation for the State Board of Elementary and Secondary Education.

**SBPCan** abbreviation for the School Breakfast Program.

**SchoolCan** any public or nonpublic school of high school grade or under recognized by the State Board of Elementary and Secondary Education as eligible to participate in the CNPs administered by the LDOE, provided that requirements set forth in the Agreement with the local school board or nonpublic school Sponsor are met or any public or nonprofit private classes of pre primary grade when they are conducted in the aforementioned schools.

**School Food AuthorityC**the governing body that is responsible for the administration of one or more schools and which has legal authority to operate the school food service programs therein or which has been otherwise approved by the Louisiana State Department of Education.

**SFA** Can abbreviation for School Food Authority.  
**Single Source** There are several sources of an item but the purchaser receives bids from only one source.

**Sole Source** There is only one source of the item.

**Small Purchase Procedure** A type of procurement method that may be utilized whenever:

- a. the aggregate purchase amount of food does not exceed \$10,000 (exception: milk and milk products);
- b. the purchases are for highly perishable materials (for example, fresh produce); or
- c. the purchase is for materials, equipment and/or supplies under \$10,000. Equipment and supplies costing less than \$10,000, must have no fewer than three telephone, facsimile or written quotations.

**Specification** A clear and simple description of an item or service that is identifiable with the current market, that is capable of being checked, that is fair and protective, and that allows maximum competition in bidding. The use of clear specifications is required with any method of purchasing.

**Sponsor** A local school board or governing body of an institution that is legally responsible for the administration of the Child Nutrition Program.

**Sponsoring Agency** A local school board or governing body of an institution that is legally responsible for the administration of the Child Nutrition Program.

**Standards of Identity** Food standards that are regulated by the Food and Drug Administration to describe the nature and character of a given item and to specify the kinds and amounts of ingredients that must go into a product. The standard of identity for a specific food tells what is in it, how it is made, and how the product looks; it also sets limits such as fat and moisture content.

**State Agency** The Louisiana State Department of Education.

**State Fiscal Year** A period of 12 calendar months beginning July 1 of any year and ending with June 30 of the following year.

**Student** An individual for whom instruction is provided in an elementary or secondary education program under the jurisdiction of a school, school system, or other educational institution.

**Table of Authorized Large and Small Equipment** A listing of equipment authorized for purchase with use of school food service funds.

**Unauthorized Equipment** Any equipment that shall not be purchased with school food service funds.

**UL** Can abbreviation of Underwriters Laboratories.

**USDA** Can abbreviation for the United States Department of Agriculture.

**USDA Commodities** The food items purchased by USDA for donation to nonprofit food service programs.

**Verification** Confirmation of eligibility for free and reduced price benefits under the National School Lunch or School Breakfast Program.

**Visitor** Any person who is not a school system employee or student.

**Volunteer** Any individual who performs duties free of charge for the local school food authority and/or its sites.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:7(5); R.S. 17:10; R.S. 17:82; R.S. 17:191-199. R.S. 1792.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 27:2220 (December 2001).

Weegie Peabody  
Executive Director

0112#040

## RULE

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

#### Minimum Offset Ratio (LAC 33:III.504)(AQ212)

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 Quality regulations, LAC 33:III.504 (Log #AQ212).

This rule revises the minimum offset ratios in LAC 33:III.504, Table 1. Major Stationary Source/Major Modification Emission Thresholds. For a nonattainment area with a classification of serious for ozone, the minimum offset ratio for volatile organic compounds (VOC) will be 1.20 to 1 with LAER (Lowest Achievable Emission Rate) or 1.40 to 1 internal without LAER. For a nonattainment area with a classification of severe for ozone, the minimum offset ratio for VOC will be 1.30 to 1. This rule also adds a minimum offset ratio for nitrogen oxides (NOx). For a nonattainment area with a classification of serious for the pollutant, ozone, the minimum offset ratio for NOx will be 1.20 to 1 with LAER or 1.40 to 1 internal without LAER. For a nonattainment area with a classification of severe for ozone, the minimum offset ratio for NOx will be 1.30 to 1. During the summer of 2000, Louisiana experienced many days of elevated ozone levels, especially in the Baton Rouge area, as a number of the monitored readings exceeded the one-hour standard. In addition, the 5-parish Baton Rouge ozone nonattainment area, which includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, did not meet the 1999 statutory deadline to comply with the one-hour ozone National Ambient Air Quality Standard (NAAQS). Therefore, identification and promulgation of regulations to implement emission reduction controls are necessary. Urban Airshed Modeling (UAM) indicates that a reduction in NOx emissions and further reduction in VOC emissions are required in at least the 5-parish area to lower ozone levels. LDEQ is preparing a revision to the State Implementation Plan (SIP) that will specify emission reduction control strategies so that Louisiana can comply with the ozone NAAQS. This revision to the minimum offset ratios is only one measure identified to reduce emissions. The basis and rationale for this rule are to protect air quality in Louisiana and comply with the NAAQS for ozone.

This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. 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 5. Permit Procedures**

**§504. Nonattainment New Source Review Procedures**

\*\*\*

[See Prior Text in A]

1. For an area that is designated incomplete data, transitional nonattainment, marginal, moderate, serious, or severe nonattainment for the one-hour ozone national ambient air quality standard, VOC and NO<sub>x</sub> are the regulated pollutants under this Section. VOC and NO<sub>x</sub> emissions shall not be aggregated for purposes of determining major stationary source status and significant net emissions increases.

\*\*\*

[See Prior Text in A.2 – A.4]

5. For applications deemed administratively complete in accordance with LAC 33:III.519.A prior to December 20, 2001, the requirements of this Section shall not apply to NO<sub>x</sub> increases; furthermore, the 1.40 to 1 VOC internal offset ratio for serious ozone nonattainment areas shall not apply. In such situations, a 1.30 to 1 internal offset ratio shall apply to VOC if LAER is not utilized.

\*\*\*

[See Prior Text in B – D]

1. All existing major stationary sources owned or operated by the applicant (or any entity controlling, controlled by, or under common control with the applicant) in this state shall be in compliance with all applicable state and federal emission limitations and standards, the Federal Clean Air Act, and all conditions in a state or federally enforceable permit, or be on schedules for compliance. For purposes of meeting this condition, the applicant shall provide a list of all major sources it owns and operates within the state and certify that all such sources are in compliance with all applicable state and federal emission limitations and standards, the Federal Clean Air Act, and all conditions in a state or federally enforceable permit, or are on schedules for compliance.

\*\*\*

[See Prior Text in D.2]

3. Notwithstanding Subsection D.2 of this Section, in the case of any major stationary source that emits or has the potential to emit 50 tons per year or more of VOC or NO<sub>x</sub> and is 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<sub>x</sub>, as specified in Subsection 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 or 1.50 to 1, as appropriate, then the requirements for LAER shall not apply.

\*\*\*

[See Prior Text in D.4 – E.5]

F. Emission Offsets. All emission offsets approved by the department shall be surplus, permanent, quantifiable, and enforceable in accordance with LAC 33:III.Chapter 6 and shall meet the following criteria:

1. All emission reductions claimed as offset credit for significant net NO<sub>x</sub> increases shall be from decreases of NO<sub>x</sub>. All emission reductions claimed as offset credit for significant net VOC increases shall be from decreases of either NO<sub>x</sub> or VOC, or any combination thereof, provided that if NO<sub>x</sub> decreases are used, the permit for which the offsets are required shall have been issued on or before November 15, 2005. Offsets shall be required at the ratio specified in Table 1 of this Section.

\*\*\*

[See Prior Text in F.2 – F.5]

6. The emission limit for determining emission offset credit involving an existing fuel combustion source shall be the most stringent emission standard which is allowable under the applicable regulation for this major stationary source for the type of fuel being burned at the time the permit application is filed. If the existing source commits to switch to a cleaner fuel, emission offset credit based on the difference between the allowable NO<sub>x</sub> or VOC emissions of the fuels involved shall be acceptable only if an alternative control measure, which would achieve the same degree of emission reductions should the source switch back to a fuel which produces more pollution, is specified in a permit issued by the department.

\*\*\*

[See Prior Text in F.7 – G.Major Modification.a]

b. any net emissions increase that is considered significant for VOC or NO<sub>x</sub> shall be considered significant for ozone. VOC and NO<sub>x</sub> emissions shall not be aggregated for the purpose of determining significant net emissions increases.

\*\*\*

[See Prior Text in G.Major Modification.c - G.Major Stationary Source.b]

c. A major stationary source that is major for VOC or NO<sub>x</sub> shall be considered major for ozone. VOC and NO<sub>x</sub> emissions shall not be aggregated for the purpose of determining major stationary source status.

\*\*\*

[See Prior Text in G.Major Stationary Source.d—Visibility Impairment]

Table 1 Major Stationary Source/Major Modification Emission Thresholds			
Pollutant	Major Stationary Source Threshold Values (tons/year)	Major Modification Significant Net Increase (tons/year)	Offset Ratio Minimum
OZONE		Trigger Values	
VOC/NO <sub>x</sub> <sup>1</sup>			
Marginal <sup>1</sup>	100	40 (40) <sup>2</sup>	1.10 to 1
Moderate	100	40 (40) <sup>2</sup>	1.15 to 1
Serious	50	25 <sup>3</sup> (5) <sup>4</sup>	1.20 to 1 w/LAER or 1.40 to 1 internal w/o LAER
Severe	25	25 <sup>3</sup> (5) <sup>4</sup>	1.30 to 1 w/LAER or 1.50 to 1 internal w/o LAER
CO	100	100	>1.00 to 1
Moderate	50	50	>1.00 to 1
Serious			
SO <sub>2</sub>	100	40	>1.00 to 1
PM <sub>10</sub>	100	15	>1.00 to 1
Moderate	70	15	>1.00 to 1
Serious			
Lead	100	0.6	>1.00 to 1

\*\*\*

[See Prior Text in Note 1 – Note 2]

<sup>3</sup> For serious and severe ozone nonattainment areas, the increase in emissions of VOC or NO<sub>x</sub> resulting from any physical change or change in the method of operation of a stationary source shall be considered significant for purposes of determining the applicability of permit requirements, if the net emissions increase from the source equals or exceeds 25 tons per year of VOC or NO<sub>x</sub>.

<sup>4</sup> Consideration of the net emissions increase will be triggered for any project that would increase VOC or NO<sub>x</sub> emissions by five tons or more per year, without regard to any project decreases, or for any project that would result in a 25 ton or more per year cumulative increase in emissions of VOC within the contemporaneous period or of NO<sub>x</sub> for a period of five years after the effective date of the rescission of the NO<sub>x</sub> waiver, and within the contemporaneous period thereafter.

VOC = volatile organic compounds

NO<sub>x</sub> = oxides of nitrogen

CO = carbon monoxide

SO<sub>2</sub> = sulfur dioxide

PM<sub>10</sub> = particulate matter of less than 10 microns in diameter

**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 1+9:1420 (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).

James H. Brent, Ph.D.  
Assistant Secretary

0112#073

## RULE

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

#### Waste Tire Fee Collection (LAC 33:VII.Chapter 105)

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 Solid Waste regulations, LAC 33:VII.10505, 10507, 10519, 10525, 10533, and 10535 (Log #SW032). Appendix C. Waste Tire Fee Collection Schedule of this Chapter is being deleted in its entirety.

The rule will modify the current waste tire fee collection methodology from \$2 per tire weighing less than 100 pounds and \$1 per 20 pounds for tires weighing over 100 pounds to \$2 per passenger/light truck tires, \$5 per medium truck tires, and \$10 per off-road tire. Appendix C. Waste Tire Fee Collection Schedule of Chapter 105 is being deleted in its entirety. It is extremely difficult for tire retailers to collect, report, and remit the waste tire fee with the current 22 categories. The rule reduces the number of categories to three. It also clarifies and cleans up the waste tire regulation revisions of December 20, 2000. The basis and rationale of this rule are to comply with Act 623 of the 2001 Regular Legislative Session.

### Title 33

## ENVIRONMENTAL QUALITY

### Part VII. Solid Waste

#### Subpart 2. Recycling

#### Chapter 105. Waste Tires

##### §10505. Definitions

The following words, terms, and phrases, when used in conjunction with the Solid Waste Rules and Regulations,

shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

\*\*\*

[See Prior Text]

*Medium Truck Tire*Ca tire weighing one hundred pounds or more and normally used on semi-trailers, truck-tractor, semi-trailer combinations or other like vehicles used primarily to commercially transport persons or property on the roads of this state or any other vehicle regularly used on the roads of this state.

\*\*\*

[See Prior Text]

*Off-Road Tire*Ca tire weighing one hundred pounds or more and that is normally used on off-road vehicles.

\*\*\*

[See Prior Text]

*Passenger/Light Truck/Small Farm Service Tire*Ca tire weighing less than one hundred pounds and normally used on automobiles, pickup trucks, sport utility vehicles, front steer tractors, and farm implement service vehicles.

\*\*\*

[See Prior Text]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2411-2422.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000), LR 27:829 (June 2001), LR 27:2225 (December 2001).

**§10507. Exemptions**

A. Any persons, facilities, or other entities subject to these regulations may petition the department for exemption from these regulations or certain portions thereof in accordance with LAC 33:VII.307.

B. A vehicle operated by a local governmental body that is engaged in the collection of waste tires that are located on governmental property or on road rights of way with the tires to be taken to an authorized waste tire collection center or permitted processing facility may be granted an exemption to the transporter authorization application fee and the transporter maintenance and monitoring fee specified in LAC 33:VII.10535. A maximum of one vehicle is allowed for each governmental body under this exemption. In order to be recognized as exempt under this Subsection, the local governmental body shall submit a transporter notification form to the administrative authority indicating the governmental body's desire to take advantage of this exemption.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2411-2422.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2774 (December 2000), LR 27:2227 (December 2001).

**§10519. Standards and Responsibilities of Generators of Waste Tires**

\*\*\*

[See Prior Text in A - B]

C. Each tire dealer doing business in the state of Louisiana shall be responsible for the collection of the \$2 waste tire fee upon the sale of each new passenger/light truck tire, \$5 waste tire fee upon the sale of each new medium truck tire, and \$10 waste tire fee upon the sale of each new off-road tire. No fee shall be collected on tires weighing more than 500 pounds or solid tires. "Tire dealers" includes any dealer selling new tires in Louisiana.

D. All tire dealers shall remit the waste tire fee, as specified in LAC 33:VII.10535.B and C, to the department on a monthly basis on or before the twentieth day following the month covered. The fee shall be submitted to the Office of Management and Finance, Financial Services Division, along with the Monthly Waste Tire Fee Report Form WT01 obtained from the Office of Management and Finance, Financial Services Division. Until December 31, 2001, the fee shall be reported on Form WT01 in the following tire categories: passenger/light truck, medium truck, and off-road. On January 1, 2002, the fee shall be reported on Form WT02. Every tire dealer required to make a report and remit the fee imposed by this Section shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each dealer shall maintain a complete record of the quantity of tires sold, together with tire sales invoices, purchase invoices, inventory records, and copies of each Monthly Waste Tire Fee Report for a period of no less than three years. These records shall be open for inspection by the administrative authority at all reasonable hours.

\*\*\*

[See Prior Text in E - E.1]

2. "All Louisiana tire dealers are required to collect a waste tire cleanup and recycling fee of \$2 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire, upon sale of each new tire. Tire fee categories are defined in the Waste Tire Regulations. No fee shall be collected on tires weighing more than 500 pounds or solid tires. This fee must be collected whether or not the purchaser retains the waste tires. Tire dealers must accept from the purchaser, at the time of sale, one waste tire for every new tire sold, unless the purchaser elects to retain the waste tire."

\*\*\*

[See Prior Text in F - I]

1. the storage is solely for the purpose of accumulating such quantities as are necessary to facilitate proper processing;

2. documentation supporting the storage period and the quantity required for proper processing are available at the generator's facility for department inspection; and

3. no more than 150 tires shall be stored at the generator's place of business at one time.

\*\*\*

[See Prior Text in J - O]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001).

**§10525. Standards and Responsibilities of Waste Tire Processors**

\*\*\*

[See Prior Text in A - D.14]

**E. Mobile Processors**

1. Only standard permitted processors shall be eligible to apply for mobile processor authorization certificates. Any mobile processor without a standard permit whose certificate expires after the effective date of these regulations may have the certificate renewed for a one-time period of 365 days upon request of the mobile processor.

\*\*\*

[See Prior Text in E.2 - F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2779 (December 2000), LR 27:831 (June 2001), LR 27:2228 (December 2001).

**§10533. Manifest System**

\*\*\*

[See Prior Text in A - C]

D. Completed manifests shall be maintained by all parties for a minimum of three years and shall be made available for audit at the place of business during regular business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:831 (June 2001), LR 27:2228 (December 2001).

**§10535. Fees and Fund Disbursement**

\*\*\*

[See Prior Text in A - A.8]

B. Waste Tire Fee upon Promulgation of These Regulations. A waste tire fee is hereby imposed on each new tire sold in Louisiana, to be collected by the tire dealer from the purchaser at the time of retail sale. The fee shall be \$2 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire. No fee shall be collected on tires weighing more than 500 pounds or solid tires.

\*\*\*

[See Prior Text in C - D.10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2781 (December 2000), LR 27:832 (June 2001), LR 27:2228 (December 2001).

James H. Brent, Ph.D.  
Assistant Secretary

0112#076

**RULE**

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

**Incorporation by Reference**

(LAC 33:I.3931; 33:III.507, 1432, 3003, 5116, 5122, and 5311; V.Chapter 30.Appendices A-M; IX.2301, 2531, 2533, and 2709; XI.1111; and XV.1517)(OS040\*)

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; 33:III.507, 1432, 3003, 5116, 5122, and 5311; 33:V.Chapter 30.Appendices A-M; 33:IX.2301, 2531, 2533, and 2709; 33:XI.1111; and 33:XV.1517 (Log # OS040\*).

This Rule is identical to federal regulations found in 10 CFR 71, 7/1/2000; 40 CFR 60, 61, 63, 70.6, 93, 117.3, 122.29, 136, 144.63, 266.appendices A - M, 268.40, 302.4, 401, and 405-471, 7/1/2000, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953.F(3) and (4).

This Rule incorporates by reference into LAC 33:I, III, V, IX, XI, and XV the corresponding regulations in 10 CFR 71 and 40 CFR parts 60, 61, 63, 70.6, 93, 117.3, 122.29, 136, 144.63, 266, 302.4, 401, and 405-471. 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 proposed 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 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 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**

\* \* \*

[See Prior Text in A]

1. 40 CFR 117.3 (7-1-00 Edition) Table 117.3C Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

2. 40 CFR 302.4 (7-1-00 Edition) Table 302.4C List of Hazardous Substances and Reportable Quantities; Appendix A to §302.4—Sequential CAS Registry Number List of CERCLA Hazardous Substances.

\* \* \*

[See Prior Text in B-Note @]

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

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

**Chapter 5. Permit Procedures**  
**§507. Part 70 Operating Permits Program**

\* \* \*

[See Prior Text in A-B.1]

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The Louisiana Department of Environmental Quality hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), as in effect on July 1, 2000. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

\* \* \*

[See Prior Text in C-J.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024 and 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 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001).

**Chapter 14. Conformity**  
**Subchapter B. Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved Under Title 23 U.S.C. or the Federal Transit Act**

**§1432. Incorporation by Reference**

A. 40 CFR part 93, subpart A, July 1, 2000, is hereby incorporated by reference with the exclusion of section 105.

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 24:1280 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001).

**Chapter 30. Standards of Performance for New Stationary Sources (NSPS)**

**Subchapter A. Incorporation by Reference (IBR)**

**§3003. IBR 40 Code of Federal Regulations (CFR) Part 60**

A. Except as modified in this Section, regulations at 40 CFR part 60, as revised July 1, 2000, and specified below in Tables 1 and 1.A are hereby incorporated by reference as they apply to the state of Louisiana.

<b>Table 1</b>	
<b>40 CFR Part 60</b>	
<b>40 CFR Part 60 Subpart</b>	<b>Subpart Headings</b>
* * *	
[See Prior Text in A – Cb]	
Cc	Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills
* * *	
See Prior Text in Cd - WWW	

\* \* \*

[See Prior Text in Table 1.A]

B. Reserved.

\* \* \*

[See Prior Text in C – D]

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 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), LR 25:1239 (July 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1607 (August 2000), LR 26:2460 (November 2000), LR 26:2608 (November 2000), LR 27:2229 (December 2001).

**Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program**  
**Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

**§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the *Code of Federal Regulations* at 40 CFR part 61, revised as of July 1, 2000, and specifically listed in the following table are hereby incorporated by reference as they apply to sources in the State of Louisiana.

40 CFR 61	Subpart/Appendix Heading
Subpart A	General Provisions
Subpart C	National Emission Standard for Beryllium
Subpart D	National Emission Standard for Beryllium Rocket Motor Firing
Subpart E	National Emission Standard for Mercury
Subpart F	National Emission Standard for Vinyl Chloride
Subpart J	National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene
Subpart L	National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants
Subpart N	National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants
Subpart O	National Emission Standard for Inorganic Arsenic Emissions for Primary Copper Smelters
Subpart P	National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities
Subpart V	National Emission Standard for Equipment Leaks (Fugitive Emission Sources)
Subpart Y	National Emission Standard for Benzene Emissions from Benzene Storage Vessels
Subpart BB	National Emission Standard for Benzene Emissions from Benzene Transfer Operations
Subpart FF	National Emission Standard for Benzene Waste Operations
Appendix A	National Emission Standards for Hazardous Air Pollutants, Compliance Status Information
Appendix B	Test Methods
Appendix C	Quality Assurance Procedures

\*\*\*

[See Prior Text in B - C]

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 23:61 (January 1997), LR 23:1658 (December 1997), amended LR 24:1278 (July 1998), LR 25:1464 (August 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2271 (October 2000), LR 27:2230 (December 2001).

**Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources**

**§5122. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air

Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR part 63, revised as of July 1, 2000, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

40 CFR 63	Subpart/Appendix Heading
***	
[See Prior Test in Subpart A – Subpart NNN]	
Subpart OOO	National Emission Standards for Hazardous Air Pollutant Emission: Manufacture of Amino/Phenolic Resins
***	
[See Prior Text in Subpart PPP]	
Subpart RRR	National Emission Standard for Hazardous Air Pollutants for Secondary Aluminum Production
***	
[See Prior Text in Subpart TTT]	
Subpart VVV	National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works
***	
[See Prior Text in Subpart XXX – Appendix D]	

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 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), LR 25:1464 (August 1999) LR 25:1798 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001).

**Chapter 53. Area Sources of Toxic Air Pollutants**  
**Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources**

**§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR part 63, revised as of July 1, 2000, and specifically listed in the following table are hereby incorporated by reference as they apply to area sources in the State of Louisiana.

40 CFR 63	Subpart/Appendix Heading
Subpart A	General Provisions
Subpart M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities
Subpart X	National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelting

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 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), LR 25:1464 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2230 (December 2001).



**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**

**Appendix A. Tier I and Tier II Feed Rate and Emissions Screening Limits For Metals**

A. 40 CFR 266, appendix I, July 1, 2000, is hereby incorporated by reference.

**Appendix B. Tier I Feed Rate Screening Limits for Total Chlorine**

A. 40 CFR 266, appendix II, July 1, 2000, 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, 2000, is hereby incorporated by reference.

**Appendix D. Reference Air Concentrations**

A. 40 CFR 266, appendix IV, July 1, 2000, 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 Appendix E of this Chapter, respectively.

**Appendix E. Risk Specific Doses (10<sup>-5</sup>)**

A. 40 CFR 266, appendix V, July 1, 2000, 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, 2000, is hereby incorporated by reference.

**Appendix G. Health-Based Limits for Exclusion of Waste-Derived Residues**

A. 40 CFR 266, appendix VII, July 1, 2000, 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, 2000, is hereby incorporated by reference.

**Appendix I. Methods Manual for Compliance with the BIF Regulations**

A. 40 CFR 266, appendix IX, July 1, 2000, is hereby incorporated by reference, except as follows:

1. 40 CFR 261, appendix VIII, 266.103, 266.103(b), 266.103(b)(3), 266.103(c), 266.103(c)(1), 266.103(c)(3)(ii), 266.103(c)(7), 266.103(d), 266.106, 266.112, 266.112(b)(1) and (b)(2)(i), 268.43, and 266.subpart H shall mean LAC 33:V.3105.Table 1, 3007, 3007.B, 3007.B.3, 3007.C, 3007.C.1, 3007.C.3.b, 3007.C.7, 3007.D, 3013, 3025, 3025.B.1 and B.2.a, Chapter 22.Table 2, and Chapter 30, respectively.

2. Terms within the incorporated Appendix shall be the terms adopted by reference except that "director," "administrator," "EPA regional office," and "EPA regional office or the appropriate enforcement agency" shall mean "administrative authority."

3. "Environmental Protection Agency" and "EPA" shall mean "administrative authority," except when referring

to an EPA method, protocol, file, performance audit sample, handbook, manual, document, program, default value, or default assumption.

4. Equation (7) of appendix A to 40 CFR 266, appendix IX shall be corrected to read:

$$s_i = \left( \frac{(n_1 - 1)S_1^2 + (n_2 - 1)S_2^2}{n_1 + n_2 - 2} \right)^{1/2}$$

B. Federal statutes and regulations that are cited in 40 CFR 266, appendix IX that are not specifically adopted by reference shall be used as guidance in interpreting the federal regulations in 40 CFR 266, appendix IX.

**Appendix J. Reserved**

**Appendix K. Lead-bearing Materials That May Be Processed in Exempt Lead Smelters**

A. 40 CFR 266, appendix XI, July 1, 2000, is hereby incorporated by reference.

**Appendix L. Nickel or Chromium-Bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces**

A. 40 CFR 266, appendix XII, July 1, 2000, is hereby incorporated by reference, except that the footnote should be deleted.

**Appendix M. Mercury-Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units**

A. 40 CFR 266, appendix XIII, July 1, 2000, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, appendix VIII shall mean LAC 33:V.3105.Table 1.

**Part IX. Water Quality**

**Chapter 23. The LPDES Program**

**Subchapter A. Definitions and General Program Requirements**

**§2301. General Conditions**

\*\*\*

[See Prior Text in A-E]

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter (e.g., 40 CFR 122.29) shall refer to those regulations published in the July 1, 2000 *Code of Federal Regulations*, unless otherwise noted.

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 21:945 (September 1995), amended LR 23:199 (February 1997), LR 23:722 (June 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000), LR 27:2231 (December 2001).

**§2531. 40 CFR Part 136**

A. Title 40 (Protection of the Environment) *Code of Federal Regulations* (CFR) part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, revised July 1, 2000, in its entirety.

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 21:945 (September 1995), amended LR 23:958 (August 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000), LR 27:2231 (December 2001).

**§2533. 40 CFR Chapter I, Subchapter N**

A. Title 40 (Protection of the Environment) CFR, chapter I, subchapter N (Effluent Guidelines and Standards), revised July 1, 2000, parts 401 and parts 405 - 471 in their entirety. (Note: General Pretreatment Regulations for Existing and New Sources of Pollution found in part 403 of subchapter N have been included in these regulations as Subchapter T.)

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 21:945 (September 1995), amended LR 23:958 (August 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000), LR 27:2232 (December 2001).

**Subchapter T. General Pretreatment Regulations for Existing and New Sources of Pollution**

**§2709. National Pretreatment Standards: Prohibited Discharges**

\*\*\*

[See Prior Text in A.1-C]

1. Each POTW developing a POTW pretreatment program pursuant to LAC 33:IX.2715 shall develop and enforce specific limits to implement the prohibitions listed in Subsections A.1 and B of this Section. Each POTW with an approved pretreatment program shall continue to develop these limits as necessary and effectively enforce such limits. In addition, the POTW may establish such limits as necessary to address the land disposal restrictions at 40 CFR 268.40.

\*\*\*

[See Prior Text in C.2-3]

D. Local Limits. Where specific prohibitions or limits on pollutants or pollutant parameters are developed by a POTW in accordance with Subsection C of this Section, including those standards established to address land disposal restrictions at 40 CFR 268.40, such limits shall be deemed pretreatment standards for the purposes of Section 307(d) of the Act.

\*\*\*

[See Prior Text in E]

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 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2232 (December 2001).

**Part XI. Underground Storage Tanks**

**Chapter 11. Financial Responsibility**

**§1111. Financial Test of Self-Insurance**

\*\*\*

[See Prior Text in A-B.2.a.ii]

iii. the sum of current plugging and abandonment cost estimates for which a financial test is used to demonstrate financial responsibility to EPA under 40 CFR 144.63;

\*\*\*

[See Prior Text in B.2.b - C.5.b]

D. To demonstrate that it meets the financial test under Subsection B or C of this Section, the chief financial officer of the owner or operator, or guarantor, must sign, within 120 days of the close of each financial reporting year, as defined by the 12-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as follows, except that the instructions in brackets

are to be replaced by the relevant information and the brackets deleted. To prepare this letter, the owner or operator must use the form required by the department. This form may be obtained from the department's Office of Management and Finance, Financial Services Division.

Letter from Chief Financial Officer

I am the chief financial officer of [insert: name and address of the owner or operator, or guarantor]. This letter is in support of the use of [insert: "the financial test of self-insurance," and/or "guarantee"] to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground tanks at the following facilities are assured by this financial test by this [insert: "owner or operator," and/or "guarantor"]: [List for each facility: the name and address of the facility where tanks assured by this financial test are located. If separate mechanisms or combinations of mechanisms, other than the combination of this letter and the owner's or operator's status as an eligible participant in the Underground Motor Fuels Storage Tank Trust, are being used to assure any of the tanks at any one facility, list each tank assured by this financial test by the tank identification number provided in the registration submitted pursuant to LAC 33:XI.301.]

A [insert: "financial test," and/or "guarantee"] is also used by this [insert: "owner or operator," or "guarantor"] to demonstrate evidence of financial responsibility in the following amounts under the following regulations:

Regulations	Amount
Closure (LAC 33:V.3707 and 4403)	\$ _____
Post-Closure Care (LAC 33:V.3711 and 4407)	\$ _____
Liability Coverage (LAC 33:V.3715 and 4411)	\$ _____
Corrective Action (LAC 33:V.3322)	\$ _____
Plugging and Abandonment (40 CFR 144.63)	\$ _____
Closure	\$ _____
Post-Closure Care	\$ _____
Liability Coverage	\$ _____
Corrective Action	\$ _____
Plugging and Abandonment	\$ _____
Total	\$ _____

This [insert: "owner or operator," or "guarantor"] has not received an adverse opinion, a disclaimer of opinion, or a "going concern" qualification from an independent auditor on his financial statements for the latest completed fiscal year.

[Fill in the information for Alternative I if the criteria of LAC 33:XI.1111.B.1 are being used to demonstrate compliance with the financial test requirements. Fill in the information for Alternative II if the criteria of LAC 33:XI.1111.B.2 are being used to demonstrate compliance with the financial test requirements. Fill in the information for Alternative III if the criteria of LAC 33:XI.1111.C are being used to demonstrate compliance with the financial test requirements.]

**Alternative I**

1. Amount of annual UST aggregate coverage being assured by a financial test, and/or guarantee \$ \_\_\_\_\_
  2. Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test, and/or guarantee \$ \_\_\_\_\_
  3. Sum of lines 1 and 2 \$ \_\_\_\_\_
  4. Total tangible assets \$ \_\_\_\_\_
  5. Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6] \$ \_\_\_\_\_
  6. Tangible net worth [subtract line 5 from line 4] \$ \_\_\_\_\_
- |   |       |       |
|---|-------|-------|
|   | Yes   | No    |
| 7. Is line 6 at least \$90,000?   | _____ | _____ |
| 8. Is line 6 at least 3 times line 3?   | _____ | _____ |
| 9. Have financial statements for the latest fiscal year been filed with the Securities and Exchange Commission? | _____ | _____ |

10. Have financial statements for the latest fiscal year been filed with the Energy Information Administration? \_\_\_\_\_
11. Have financial statements for the latest fiscal year been filed with the Rural Electrification Administration? \_\_\_\_\_
12. Has financial information been provided to Dun and Bradstreet, and has Dun and Bradstreet provided a financial strength rating of 4A or 5A? [Answer "Yes" only if both criteria have been met.] \_\_\_\_\_

**Alternative II**

1. Amount of annual UST aggregate coverage being assured by a financial test, and/or guarantee \$ \_\_\_\_\_
2. Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test, and/or guarantee \$ \_\_\_\_\_
3. Sum of lines 1 and 2 \$ \_\_\_\_\_
4. Total tangible assets \$ \_\_\_\_\_
5. Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6] \$ \_\_\_\_\_
6. Tangible net worth [subtract line 5 from line 4] \$ \_\_\_\_\_
7. Is line 6 at least \$10 million? Yes No \_\_\_\_\_
8. Is line 6 at least 10 times line 3? \_\_\_\_\_
9. Have financial statements for the latest fiscal year been filed with the Securities and Exchange Commission? \_\_\_\_\_
10. Have financial statements for the latest fiscal year been filed with the Energy Information Administration? \_\_\_\_\_
11. Have financial statements for the latest fiscal year been filed with the Rural Electrification Administration? \_\_\_\_\_
12. Has financial information been provided to Dun and Bradstreet, and has Dun and Bradstreet provided a financial strength rating of 4A or 5A? [Answer "Yes" only if both criteria have been met.] \_\_\_\_\_

**Alternative III**

1. Amount of annual UST aggregate coverage being assured by a test, and/or guarantee \$ \_\_\_\_\_
2. Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test, and/or guarantee \$ \_\_\_\_\_
3. Sum of lines 1 and 2 \$ \_\_\_\_\_
4. Total tangible assets \$ \_\_\_\_\_
5. Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6] \$ \_\_\_\_\_
6. Tangible net worth [subtract line 5 from line 4] \$ \_\_\_\_\_
7. Total assets in the U.S. [required only if less than 90 percent of assets are located in the U.S.] \$ \_\_\_\_\_
8. Is line 6 at least \$10 million? Yes No \_\_\_\_\_
9. Is line 6 at least 6 times line 3? \_\_\_\_\_
10. Are at least 90 percent of assets located in the U.S.? [If "No," complete line 11.] \_\_\_\_\_
11. Is line 7 at least 6 times line 3? [Fill in either lines 12—15 or lines 16—18:] \_\_\_\_\_
12. Current assets \$ \_\_\_\_\_
13. Current liabilities \$ \_\_\_\_\_
14. Net working capital [subtract line 13 from line 12] \$ \_\_\_\_\_
- Yes No \_\_\_\_\_

15. Is line 14 at least 6 times line 3? \_\_\_\_\_
16. Current bond rating of most recent bond issue \_\_\_\_\_
17. Name of rating service \_\_\_\_\_
18. Date of maturity of bond \_\_\_\_\_
- Yes No \_\_\_\_\_

19. Have financial statements for the latest fiscal year been filed with the SEC, the Energy Information Administration, or the Rural Electrification Administration? \_\_\_\_\_

[If "No," please attach a report from an independent certified public accountant certifying that there are no material differences between the data as reported in lines 4-18 above and the financial statements for the latest fiscal year.]

[For both Alternative I and Alternative II complete the certification with this statement.]

I hereby certify that the wording of this letter is identical to the wording specified in LAC 33:XI.1111.D as such regulations were constituted on the date shown immediately below.

[Signature]  
[Name]  
[Title]  
[Date]

\*\*\*

[See Prior Text in E-G]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000), amended, LR 27:2232 (December 2001).

**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 (July 1, 2000).

**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), LR 27:2233 (December 2001).

James H. Brent, Ph.D.  
Assistant Secretary

0112#031

**RULE**

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

Permit Procedures for New Emissions Sources and Major Modifications in Specified Parishes  
(LAC 33:III.509 and 510)(AQ218)

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 Quality regulations, LAC 33:III.509 and 510 (Log #AQ218).

This rule establishes a control technology requirement for NOx and VOC emissions at new emissions units located at new and existing major stationary sources, as well as mandate an offset requirement for major modifications as

defined in LAC 33:III.509. This rule would be applicable to sources located in parishes where emissions must be regulated to such an extent as to maintain the attainment status of that parish, or expedite or maintain the attainment status of an adjacent or nearby parish. Namely, these parishes are Beauregard, Cameron, Calcasieu, and Jefferson Davis. Calcasieu Parish experienced six ozone exceedance days during the years 1998, 1999, and 2000. Four or more exceedances during any consecutive 3-year period constitute a violation of the ozone National Ambient Air Quality Standard (NAAQS). In accordance with contingency measures established in the approved air quality Maintenance Plan for Calcasieu Parish, a control strategy must be developed and appropriate control measures implemented in an effort to maintain Calcasieu's current attainment designation and to protect air quality in the area. The basis and rationale for this rule are to protect and maintain the air quality in Calcasieu Parish and the adjoining parishes of Beauregard, Cameron, and Jefferson Davis and to continue to meet the National Ambient Air Quality Standard for ozone.

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

**§509. Prevention of Significant Deterioration**

\*\*\*

[See Prior Text in A -B. Baseline Area.1]

2. All parishes are designated as attainment for all pollutants except the following parishes are designated nonattainment for ozone only:

Ascension
East Baton Rouge
Iberville
Livingston
West Baton Rouge

\*\*\*

[See Prior Text in B. Baseline Concentration -S.4]

**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 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2234 (December 2001).

**§510. New Emissions Sources and Major Modifications in Specified Parishes**

A. Applicability. The provisions of this Section shall be applicable in the following parish: Calcasieu.

B. Control Technology Requirements. The provisions of this Section apply to new, modified, and reconstructed

emissions units at new or existing major stationary sources, as defined herein, provided the source is located within a parish specified in Subsection A of this Section. *Modification* and *reconstruction* shall have the same meanings attributed to them in 40 CFR 60.14 and 60.15.

1. Maintenance Reasonably Available Control Technology (MRACT) Requirements

a. The potential to emit of a stationary source shall be compared to the major stationary source threshold values listed in Table 1 of this Section to determine whether the source is major.

b. Each new modified or reconstructed emissions unit at a new or existing major stationary source shall apply MRACT requirements for each pollutant subject to regulation under this Section that it would emit, or have the potential to emit, in amounts greater than or equal to the de minimus value specified in Table 1 of this Section. The de minimus value shall represent the potential to emit of the emissions unit only and shall not consider any contemporaneous increases and decreases at the facility. *Modification* and *reconstruction* shall have the same meanings attributed to them in 40 CFR 60.14 and 60.15.

c. Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. For a phased construction project, each phase must commence construction within 18 months of the projected and approved commencement date. The department may extend the 18-month period upon a satisfactory showing that an extension is justified.

d. For phased construction projects, the determination of MRACT shall be reviewed and modified, as appropriate, at the latest reasonable time, but no later than 18 months prior to commencement of construction of each independent phase of the project. At such time the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of MRACT.

e. If the owner or operator applies for an extension, as provided for in Subsection B.1.c of this Section, and the new proposed date of construction is greater than 18 months from the date that the approval to construct would become invalid, the determination of the MRACT shall be reviewed and modified as appropriate before such an extension is granted. At such time the owner or operator may be required to demonstrate the adequacy of any previous determination of the MRACT.

2. Source Information. The owner or operator of an affected emissions unit, as identified in Subsection B.1.b of this Section, shall submit all information necessary to the Office of Environmental Services, Permits Division, in order to perform any analysis or make any determination required under this regulation. Information shall include, but is not limited to:

a. a description of the nature, location, design capacity, and typical operating schedule of the emissions unit(s), including specifications and drawings showing the design and plant layout;

b. a detailed schedule for construction of the emissions unit(s); and

c. a detailed description of the planned system of emission controls to be implemented, emission estimates, and other information necessary to demonstrate that MRACT will be applied and maintained.

3. Exemptions. The following emissions units are exempt from the control technology requirements of this Subsection:

a. those that are subject to the Best Available Control Technology (BACT) requirements of the Prevention of Significant Deterioration (PSD) program, LAC 33:III.509;

b. those that are subject to the control requirements of a national emission standard in 40 CFR part 61 or a national emission standard for hazardous air pollutants for source categories in 40 CFR part 63 (with regard to VOC control only);

c. those that trigger substantive control requirements of any section in LAC 33:III.Chapter 21 (with regard to VOC control only); and

d. those that must be installed, modified, or reconstructed to comply with the Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements published in the *Federal Register* on February 10, 2000, at 65 FR 6697.

C. Offset Requirements. The provisions of this Subsection apply to major stationary sources and major modifications, as defined in LAC 33:III.509.I, provided the source is located within a parish specified in Subsection A of this Section.

#### 1. Emission Offsets

a. The emissions increase from a new major stationary source or major modification, as defined in LAC 33:III.509.I, shall be offset in accordance with the provisions of this Section at the ratio specified in Table 1 of this Section.

b. All emission offsets approved by the department shall be surplus, permanent, quantifiable, and enforceable in accordance with LAC 33:III.Chapter 6 and meet the following criteria:

i. all emission reductions claimed as offset credit shall be from decreases of the same pollutant or pollutant class (e.g., VOC) for which the offset is required. Interprecursor trading, for example, using a NO<sub>x</sub> credit to offset a VOC emission increase, is not allowed;

ii. all emission reductions claimed as offset credit must have occurred on or after June 2, 1997;

iii. all emission reductions claimed as offset credit shall be enforceable prior to commencement of construction of the major modification. All emission reductions claimed as offset credit shall occur prior to or concurrent with the start of operation of the proposed major stationary source;

iv. offset credit for any emission reduction can be claimed only to the extent that the department has not relied on it in previously issuing any permit;

v. emission reductions achieved by shutting down an existing source or curtailing production or operating hours below baseline levels may be generally credited if such reductions are permanent, quantifiable, and enforceable;

vi. emission offsets shall be obtained from the same source or other sources located in the parishes subject to this Subsection; and

vii. emission reductions otherwise required by the Act or by state regulations shall not be credited for purposes of satisfying the offset requirement. Incidental emission reductions that are not otherwise required by the Act or by state regulations may be creditable as offsets.

c. First-time applications for banking Emission Reduction Credits (ERC) where the emission reduction occurred between June 2, 1997, and December 31, 2001, shall be submitted on or before March 31, 2002. Thereafter, applications shall be submitted in accordance with LAC 33:III.615.A.

d. The initial summary report required by LAC 33:III.613 shall be due by March 31, 2003, and should cover the period of June 2, 1997, through December 31, 2002. Thereafter, such reports shall be submitted in accordance with LAC 33:III.613.

2. Source Information. The owner or operator desiring to utilize emission reductions as an offset shall submit to the Office of Environmental Services, Permits Division the following information:

a. a detailed description of the process to be controlled and the control technology to be used;

b. emission calculations showing the types and amounts of actual emissions to be reduced; and

c. the effective date of the reduction.

3. Exemptions. The following significant net increases in NO<sub>x</sub> and/or VOC emissions shall not be considered major modifications and are exempt from the offset requirements of this Subsection:

a. those that will be realized as a direct result of modifications or process changes required to comply with the Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements published in the *Federal Register* on February 10, 2000, at 65 FR 6697; and

b. those that are a direct result of and incidental to the installation of abatement equipment or implementation of a control technique required to comply with another state or federal regulation, consent decree, or other enforcement action or those that result from a project meeting the qualifications for a pollution control project in accordance with EPA's July 1, 1994, Pollution Control Projects and New Source Review (NSR) Applicability.

#### D. Compliance Schedule

1. The control technology requirements of Subsection B of this Section shall apply to all affected emissions units for which an application to construct, modify, or reconstruct is received on or after December 20, 2001. *Modification* and *reconstruction* shall have the same meanings attributed to them in 40 CFR 60.14 and 60.15.

2. The offset requirements of Subsection C of this Section shall apply to all new major stationary sources and major modifications, as defined in LAC 33:III.509.I, for which an application to construct or modify is received on or after December 20, 2001.

E. Definitions. Unless otherwise noted, the terms in this Section are defined in LAC 33:III.111 or 504.G, with the exception of those terms specifically defined as follows:

*Emissions Unit*—any part of a major stationary source, as defined herein, that emits or has the potential to emit any pollutant regulated under this Section.

*Existing*—a major stationary source or emissions unit that does not meet the definition of *new*.

*Maintenance RACT (MRACT)*—reasonably available control technology for new emissions units in parishes designated by the department.

a. MRACT may include control devices, systems, process modifications, or other apparatus or techniques that are reasonably available, as determined by the department on a case by case basis, taking into account:

- i. the necessity of imposing such controls in order to attain and maintain a national ambient air quality standard in the parishes in question; and
- ii the energy, environmental, and economic impact of such controls.

b. In no event shall application of reasonably available control technology result in emissions of any pollutant that would exceed the emissions allowed by an applicable standard as set forth in section 111 of the Federal Clean Air Act or LAC 33:III.5109.A, if applicable. If the department determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, or operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of MRACT. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means that achieve equivalent results.

*Major Stationary Source*—

a. any stationary source (including all emission points and units of such source located within a contiguous area and under common control) of air pollutants that emits, or has the potential to emit, any regulated pollutant at or above the threshold values defined in Table 1 of this Section; or

b. any physical change that would occur at a stationary source not qualifying under Subparagraph a of this definition as a major stationary source, if the change would constitute a major stationary source by itself;

c. a stationary source shall not be a major stationary source due to fugitive emissions, to the extent that they are quantifiable, unless the source belongs to:

- i. any category in Table A in LAC 33:III.509.B;
- or
- ii. any other stationary source category that, as of August 7, 1980, is being regulated under section 111 or 112 of the Federal Clean Air Act;

d. a stationary source shall not be a major stationary source due to secondary emissions.

*New*—a major stationary source or emissions unit for which an application to construct, modify, or reconstruct is received on or after December 20, 2001.

*Regulated Pollutant*—a pollutant listed in Table 1 of this Section.

<b>Pollutant</b>	<b>Major Stationary Source Threshold Values (tons/year)</b>	<b>New Emissions Unit De Minimus Trigger Values (tons/year)</b>	<b>Offset Ratio Minimum</b>
VOC	100	25	1.10 to 1
NO <sub>x</sub>	100	25	1.10 to 1

VOC = volatile organic compounds  
NO<sub>x</sub> = nitrogen oxides

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 27:2234 (December 2001).

James H. Brent, Ph.D.  
Assistant Secretary

0112#074

**RULE**

**Department of Health and Hospitals  
Board of Medical Examiners**

Subpoenas for Hearing  
(LAC 46:XLV.9917)

In accordance with R.S. 49:953, the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and particularly R.S. 37:1270(B), has amended its procedural rules of adjudication governing the issuance of subpoenas in connection with adjudication hearings, LAC 46:XLV.9917.A. This amendment provides for the issuance of subpoenas upon the signature of either the Executive Director or such other individual as may be designated by the Board.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLV. Medical Professions**

**Subpart 5. Rules of Procedure**

**Chapter 99. Cadjudication**

**§9917. Subpoenas for Hearing**

A. Upon request of the respondent or complaint counsel and compliance with the requirements of this section, the Executive Director, or such other individuals as may be designated by the Board, shall sign and issue subpoenas in the name of the Board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:507 (June 1990), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:2236 (December 2001).

John B. Bobear, M. D.  
Interim Executive Director

0112#084

## RULE

### Department of Health and Hospitals Board of Pharmacy

#### Prescriptions (LAC 46:LIII.1109)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has repealed the entire contents of the current referenced section and adopted the following Rule.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LIII. Pharmacists

#### Chapter 11. Pharmacies

#### §1109. Prescriptions

A. Definitions. As used in this Section, the following terms shall have the meaning ascribed to them in this Subsection.

*Electronic Prescription* Ca prescription transmitted in electronic form.

*Practice Affiliation* Ca practice relationship, collaboration, or practice under the supervision of a physician licensed to practice medicine.

*Prescription or Prescription Drug Order* Can order from a practitioner authorized by law to prescribe for a drug or device that is patient-specific and is communicated by any means to a pharmacist in a permitted pharmacy, and is to be preserved on file as required by law or regulation (R.S. 37:1164.44).

B. Written Prescriptions. A written prescription shall conform to the following format.

1. The prescription form shall not be less than 4 inches by 5 inches, and shall bear a single printed signature line.

2. The prescription form shall clearly indicate the authorized prescriber's name, licensure designation, address, telephone number, and, if applicable, DEA registration number. In the event that multiple practitioners are identified on the prescription form, the authorizing prescriber's specific identity shall be clear and unambiguous. This identification may be indicated by any means, including, but not limited to, a marked check box next to, or circling the authorizing prescriber's printed name.

3. If the authorized prescriber is a non-physician, the prescription form shall clearly indicate the authorized prescriber's practice affiliation. The affiliated physician's name, address, and telephone number shall appear on the prescription form.

4. No prescription form shall contain more than four prescription drug orders. Each prescription drug order on the form shall provide the following:

a. check box labeled "Dispense as Written," or "DAW", or both;

b. the number of refills, if any.

5. Forms used by pharmacists to record telephoned or transferred prescriptions are exempt from the format requirements listed above.

6. Equivalent Drug Product Interchange

a. The pharmacist shall not select an equivalent drug product when the prescriber handwrites a mark in the check box labeled "Dispense as Written," or "DAW," or both, and personally handwrites his signature on a printed single signature line. Otherwise, the pharmacist may select an equivalent drug product, provided the patient has been informed of, and has consented to, the proposed cost saving interchange.

b. In the event an authorized prescriber has indicated that an equivalent drug product interchange is prohibited by handwriting a mark in the check box labeled "Dispense as Written", or "DAW," or both, then a non-licensed, non-certified, or non-registered agent of the pharmacy shall not inquire as to a patient's desire for an equivalent drug product interchange.

c. For prescriptions reimbursable by Medicaid or Medicare, the authorized prescriber may only prohibit equivalent drug product interchange by handwriting the words "brand necessary" or "brand medically necessary" on the face of the prescription order or on a sheet attached to the prescription order.

#### C. Oral Prescriptions

1. Upon the receipt of an oral prescription from an authorized prescriber, the pharmacist shall reduce the order to a written form prior to dispensing the medication.

2. The pharmacist shall not select an equivalent drug product when the authorized prescriber or his agent has verbally indicated a specific brand name drug or product is ordered.

3. The pharmacist may select an equivalent drug product if the authorized prescriber or his agent has given his approval to the equivalent drug interchange. The patient shall be informed of, and consent to, the proposed cost saving interchange.

#### D. Electronic Prescriptions

1. The prescription shall clearly indicate the authorized prescriber's name, licensure designation, address, telephone number, and, if applicable, DEA registration number.

2. If the authorized prescriber is a non-physician, the prescription form shall clearly indicate the authorized prescriber's practice affiliation. The affiliated physician's name, address, and telephone number shall appear on the prescription form.

3. The pharmacist shall not select an equivalent drug product when the prescriber indicates in the check box labeled "Dispense as Written," or "DAW," or both, and electronically transmits his signature on the formatted single signature line. Otherwise, the pharmacist may select an equivalent drug product, provided the patient has been informed of, and has consented to, the proposed cost-saving interchange.

#### 4. Facsimile Prescription

a. The receiving facsimile machine of a prescription transmitted by facsimile shall be located within the pharmacy department.

b. The prescription transmitted by facsimile shall be on a non-fading, legible medium.

c. All requirements applicable to written prescriptions in Subsection B shall apply to facsimile prescriptions except §1109.B.6.c.

E. Exclusion. The provisions of this section shall not apply to medical orders written for patients in facilities licensed by the Louisiana Department of Health and Hospitals. This Rule shall become effective January 1, 2002.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 27:2237 (December 2001).

Malcolm J. Broussard, RPh  
Executive Director

0112#014

#### **RULE**

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

Hospital Program C Outpatient Surgery  
Services C Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is adopted 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 increases the reimbursement paid to hospitals for those outpatient surgical procedures included in the four payment groups on the Medicaid outpatient surgery list to the following rates:

Group 1	\$444.25
Group 2	\$528.92
Group 3	\$569.32
Group 4	\$646.25

Reimbursement paid to hospitals for those surgical procedures not included on the Medicaid outpatient surgery list shall be the highest flat fee assigned to the outpatient surgery payment groups.

Implementation of this Rule shall be contingent upon the certification of matching funds by non-state public hospitals (except small rural hospitals as defined in R.S. 40:1300.143) as set forth in the Appropriations Act of the 2001 Regular Session of the Louisiana Legislature and the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

David W. Hood  
Secretary

0112#116

#### **RULE**

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

Inpatient Psychiatric Services C Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is adopted 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 increases the current per diem rate for inpatient psychiatric services by \$50 to \$394.85 for services provided to recipients up to the age of 21.

Implementation 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.

David W. Hood  
Secretary

0112#115

#### **RULE**

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

Minimum Standards for Home Health Agencies  
(LAC 48:I.Chapter 91)

Editor's Note: Codification has been corrected in the following Rule, and Section numbers for the entire Chapter 91 have been changed accordingly. The former §9175.Denial of Initial Licensure is repealed in its entirety.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended the following rule as authorized by R.S. 40:2116.31-2116.40. This rule was amended 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 adopted a rule revising the regulations governing the licensure of home health agencies in February of 1995 (*Louisiana Register*, volume 21, number 2). This rule was subsequently amended by a rule adopted in November of 1996 to revise the provisions contained in §§9165 through 9169, 9173, 9177 and 9193 (*Louisiana Register*, volume 22, number 11). There continues to be substantial growth in the home health industry and in the utilization of these services by the citizens of Louisiana. In order to ensure that these licensure standards continue to protect and promote the health and welfare of all consumers of home health services, the Department proposes to amend the designated provisions of the February 20, 1995, January 1992, and November 20, 1996 rules in their entirety an effort to provide clarification of the regulations, and to correct section numbers.



**Title 48**  
**PUBLIC HEALTH**  
**Part I. General Administration**  
**Subpart 3. Licensing and Certification**  
**Chapter 91. Minimum Standards for Home Health Agencies**

**§9101. Definitions**

A. The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

**Activities of Daily Living (ADL)** the functions or tasks which are performed either independently or with supervision or assistance—mobility; transferring; walking; grooming; bathing; dressing and undressing; eating, and toileting.

**Administrator** a person who is designated in writing as administratively responsible and available in person or by telecommunication at all times for all aspects of an agency's operations.

**Advisory Board** a group of persons who meet with agency staff and/or owners as frequently as needed, but at least once every year, to evaluate the overall functions of the agency.

**Allied Health Personnel** nursing assistants, licensed practical nurses, licensed physical therapy assistants, and other health care workers who require supervision by other health care professionals.

**Branch** an office from which a home health agency provides services within a portion of the total geographic service area served by the parent agency. The branch office is part of the parent home health agency; is located within a 50-mile radius of the parent agency; and shares administration and supervision. See §9117. Operation of Branch Offices.

**Bureau** Bureau of Health Services Financing.

**Change of Ownership (CHOW)** the sale or transfer of all or a portion of the assets or other equity interest in a home health agency. Examples of actions that constitute a change of ownership include:

a. unincorporated sole proprietorship. Transfer of title and property of another party constitutes change of ownership;

b. corporation. The merger of the provider corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute a change of ownership. Admission of a new member to a nonprofit corporation is not a change of ownership;

c. limited liability company. The removal, addition or substitution of a member in a limited liability company does not constitute a change of ownership;

d. partnership. In the case of a partnership, the removal, addition, or substitution, of a partner, unless the partners expressly agree otherwise as permitted by applicable state law, constitutes a change of ownership.

**Clinical Records** those documents maintained on all patients accepted for care by a home health agency. The records shall be retained in accordance with existing state law.

**Clinical Note** a written notation of each visit with a patient, which shall include the date and time of the visit, services rendered, and the signature of person providing services. The note may also include any pertinent information related to the visit. See §9129.B. Clinical Records.

**Controlling Ownership or Controlling Interest** equity or voting interest possessed by a person or entity that:

a. has a direct or indirect equity interest equal to 5 percent or more in the capital, the stock, or the profits of a home health agency; or

b. is an officer or director of a home health agency which is organized as a corporation; or

c. is a partner in a home health agency which is organized as a partnership; or

d. is a member or manager of a home health agency that is organized as a limited liability company. The term *controlling ownership* is synonymous with the terms *controlling interest* or *control interest* as defined by the Department of Health and Human Services (DHHS), Centers for Medicare and Medicaid Services (CMS).

**Department** the Department of Health and Hospitals (DHH).

**Director of Nurses (DoN)** a person designated in writing to supervise all aspects of patient care, all activities of professional staff and allied health personnel, and be responsible for compliance with regulatory requirements.

**Full Licensure** issued only to those agencies that meet all criteria for licensure. It is valid for one year unless specified otherwise (the expiration date is on the license).

**Geographic Service Area** area within a 50 statute mile radius of the parent agency.

**Governing Body** the person or group of persons who have legal authority for and/or ownership of the corporation of the home health agency and responsibility for agency operations. A governing body assumes full legal authority and responsibility for the operation of the agency.

**Home Health Agency** a state-owned and operated agency, or a subdivision of such an agency or organization; or a private nonprofit organization; or a proprietary organization which provides skilled home health care and support services to the public. Skilled home health care is provided under the order of a physician, in the place of residence of the person receiving the care, and includes skilled nursing and at least one of the following services: physical therapy, speech therapy, occupational therapy, medical social services, or home health aide services.

**Home Health Agency Premises** the physical site where the home health agency maintains staff to perform administrative functions, and maintains its personnel records, or maintain its patient service records, or holds itself out to the public as being a location for receipt of patient referrals. The home health agency shall be a separate entity from any other entity, business, or trade. If office space is shared with another health related entity, the home health agency must operate independently and have a clearly defined scope of services. The home health agency may not share office space with a non-health-related entity.

**Home Health Aide** a qualified person who provides direct patient care in the home under the direct supervision of a registered nurse to assist the patient with the activities of daily living.

**Home Health Packet** the collection of appropriate forms for licensure that may be obtained from the Department for an established fee. This packet is to be completed by all initial applicants before the licensure process can begin.

**Jurisdiction** Call home health agencies shall be under the jurisdiction of the Department of Health and Hospitals, which promulgates and enforces the rules and regulations governing the operation of such agencies or organizations. However, nothing in this Part shall be construed to prohibit the delivery of personal care, homemaker, respite, and other in-home services by a person or entity not licensed under this rule unless provided with other home health services.

**Licensed Practical Nurse** A person who works under the supervision of a registered nurse.

**Life-Threatening** Causes or has the potential to cause serious bodily harm or death of an individual.

**Physician** A doctor of medicine, a doctor of osteopathy, or a podiatrist who is currently authorized to practice in Louisiana.

**Professional Staff** Health care providers who are required to possess current licensure and/or board certification and are authorized to supervise other health professionals as indicated.

**Provisional License** A license issued to those agencies that do not meet criteria for full licensure. It is issued by the Department and is valid for six months or until the termination date.

**Skilled Care** Services provided by an agency for patients who are not medically stable or have not attained a satisfactory level of rehabilitation. These patients require frequent monitoring by licensed professional health care personnel.

**Supervision** Authoritative procedural guidance by a qualified person who assumes the responsibility for the accomplishment of a function or activity and who provides direction, ongoing monitoring and evaluation of the actual act of accomplishing the function or activity.

**Support Services** Services provided to assist the ill, disabled or infirmed person with household tasks essential to achieving adequate household and family management. Support services may include, but are not limited to housekeeping, shopping, maintenance of premises, sitter or companion services. Home health agencies that choose to provide support services must have written policies and procedures outlining the delivery, training, assignment, supervision and complaint resolution processes for these services. Support services are strictly supportive in nature and are not part of the patient's medical plan of care; therefore, a physician's order is not required.

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### **§9103. Personnel Qualifications and Responsibilities**

A. Administrator. The administrator shall be appointed by and answer directly to the governing body of the agency. The administrator and the director of nursing or the alternate director of nursing may be the same individual if dually qualified. If an individual is designated as the administrator

for more than one agency, then he/she must designate an alternate who is a full-time, on-site employee of each agency and meets the qualifications for an administrator.

#### 1. Qualifications

a. The administrator must have three years of management experience in the delivery of health care service and meet one of the following criteria:

- i. is a licensed physician; or
- ii. is a registered nurse; or
- iii. is a college graduate with a bachelor's degree;

or

- iv. has an associate degree; or
- v. has had three additional years of documented experience in health care delivery services; or
- vi. has had six additional years of documented

administrative and managerial experience in a governmental or corporate setting, other than in health care delivery services; supervised at least 20 employees; and handled administration of the daily operations of the organization, including the budget process. The person shall have held no more than three positions during the six-year time period.

b. In addition to the qualifications listed above, those individuals who meet the qualifications contained in §9103.A.1.a.iii - vi must have one additional year of home health management experience.

#### 2. Responsibilities. The administrator shall:

a. be available in person or by telecommunication at all times for all aspects of agency operation;

b. designate in writing an individual, who meets the qualifications for an administrator, to assume the authority and the control of the agency if the administrator is unavailable;

c. direct the operations of the agency;

d. be responsible for compliance with all regulations, laws, policies and procedures applicable to home health and Medicare (when applicable) issues;

e. employ qualified individuals and ensure adequate staff education and evaluations;

f. ensure the accuracy of public information materials and activities;

g. act as liaison between staff, the group of professional personnel, and the governing body; and

h. implement an ongoing accurate and effective budgeting and accounting system.

#### B. Advisory Board

1. Qualifications. The advisory board shall be composed of the following individuals:

a. at least three health care professionals of which one must be an R.N. and one must be a physician; and

b. at least two non-health care professionals from the community who are not connected financially or by family to the agency or the governing body; one of these professionals may be a member of a patient's family.

#### 2. Responsibilities. The advisory board shall:

a. conduct an annual documented review of the policies and procedures, the budget, overall program evaluation, statistical information, complaint resolutions and any projected changes;

b. maintain written minutes of meetings with the signatures of all attendees, dates, and times; and

c. receive written notification of any of the following:

- i. the agency's administrator or director of nurses is fired, resigns, or becomes incapacitated to the extent that he/she can no longer perform his/her duties;
- ii. the agency is surveyed and found to be in violation of the state law, minimum standards, rules, or regulations of the Department of Health and Hospitals;
- iii. any other grounds which adversely affect the agency's operation.

#### C. Director of Nurses

1. **Qualifications.** The director of nurses (DoN) must be a registered nurse who is currently licensed to practice in the State of Louisiana and has at least three years of experience as a registered nurse. One of these years must consist of full-time experience in providing direct patient care in a home health setting. The DoN must be a full-time employee of only one agency.

NOTE: The director of nurses may never serve more than one agency.

2. **Responsibilities.** The director of nursing shall:
- a. be a full-time employee of only one home health agency;
  - b. supervise all patient care activities to assure compliance with current standards of accepted nursing and medical practice;
  - c. establish personnel and employment policies to assure that only qualified personnel are hired; employ qualified personnel by verifying licensure and/or certification (as required by law) prior to employment and annually thereafter; and certify and maintain records to support competency of all allied health personnel;
  - d. develop and maintain agency policy and procedure manuals that establish and support the highest possible quality of patient care, cost controls, quality assurance, and mechanisms for disciplinary action for infractions;
  - e. supervise employee health program;
  - f. assure compliance with local, state, and federal laws as well as promote the health and safety of employees, patients and the community with the following non-exclusive methods:
    - i. resolve problems;
    - ii. perform complaint investigations;
    - iii. refer impaired personnel to proper authorities;
    - iv. provide for orientation and in-service to personnel to promote the health and safety of the patient as well as to familiarize staff with regulatory issues and agency policy and procedures;
    - v. ensure orientation of health care personnel who provide direct patient care;
    - vi. ensure timely annual evaluation of health care personnel;
    - vii. assure regularly scheduled appropriate continuing education for all health professionals and home health aides;
    - viii. assure that the care provided by the health care personnel promotes the health and safety of the patient; and
    - ix. assure that agency policies are enforced;
  - g. be on-site or immediately available to be on-site and available by telecommunications during normal operating hours. The agency shall designate in writing a registered nurse who will assume the responsibilities of the DoN during his/her absence, i.e., on vacation, ill time, at a workshop, etc.

#### D. Home Health Aide

1. **Qualifications.** A home health aide must meet the following criteria:

- a. successfully complete a competency evaluation; and
- b. have current nursing assistant certification; or
- c. have successfully completed a training program; and
- d. exhibit a sympathetic attitude toward the patient, an ability to provide care to the sick, and the maturity and ability to deal effectively with the demands of the job;
- e. have the ability to read, write, and carry out directions promptly and accurately; and
- f. must inform all employers when employed with one or more agencies; cooperate and coordinate to assure highest performance of quality when providing services to the patient.

2. **Responsibilities.** The home health aide:

- a. shall obtain and record vital signs during each visit in addition to notifying the primary registered nurse of deviations according to standard practice;
  - b. may provide assistance with the following ADL's during each visit: mobility, transferring, walking, grooming, bathing, dressing or undressing, eating, or toileting. Some examples of assistance include:
    - i. helping the patient with a bath, care of the mouth, skin and hair;
    - ii. helping the patient to the bathroom or in using a bedpan or urinal;
    - iii. helping the patient to dress and/or undress;
    - iv. helping the patient in and out of bed, assisting with ambulation;
    - v. helping the patient with prescribed exercises which the patient and the health aide have been taught by appropriate personnel; and
    - vi. performing such incidental household services essential to the patient's health care at home that are necessary to prevent or postpone institutionalization;
  - c. may perform care assigned by a registered nurse if the delegation is in compliance with current standards of nursing practice;
  - d. may administer over the counter disposable enemas, saline or vinegar douches, and glycerine or ducolax suppositories; and
  - e. shall complete a clinical note for each visit, which must be incorporated into record at least on a weekly basis.
3. **Restrictions.** The home health aide shall not:
- a. perform any intravenous procedures, procedures involving insertion of feeding tubes or urinary catheters, the administration of tube feedings, or any other sterile or invasive procedures;
  - b. administer medications to any patient; and
  - c. perform any of the following tasks that are not home health aide services: transporting the patient, general housekeeping duties, or shopping.
4. **Training.** A home health agency that offers a training program must, at a minimum, include the following in the training program:
- a. communication skills;
  - b. observation, reporting and documentation of patient status and the care or service furnished;

- c. reading and recording temperature, pulse, and respiration;
- d. basic infection control procedures;
- e. basic elements of body functioning and changes in body function that must be reported to an aide's supervisor;
- f. maintenance of a clean, safe, and healthy environment;
- g. recognizing emergencies and knowledge of emergency procedures;
- h. the physical, emotional, and developmental needs of the patient and methods for working with the populations served by the agency, including the need to respect the patient, his/her privacy and his/her property;
- i. safe transfer techniques and ambulation;
- j. appropriate and safe techniques in personal hygiene and grooming that include:
  - i. bed bath;
  - ii. sponge, tub, or shower bath;
  - iii. sink, tub, bed or shampoo;
  - iv. nail and skin care;
  - v. oral hygiene; and
  - vi. toileting and elimination;
- k. normal range of motion and positioning;
- l. adequate nutrition and fluid intake;
- m. any other task, within state regulations, that the agency may choose to have the home health aide perform.

5. Orientation. The content of the basic orientation provided to home health aides shall include the following:
- a. policies and objectives of the agency;
  - b. duties and responsibilities of a home health aide;
  - c. the role of the home health aide as a member of the health care team;
  - d. ethics and confidentiality;
  - e. record keeping;
  - f. information on the process of aging and behavior of the aged;
  - g. information on the emotional problems accompanying illness; and
  - h. principles and practices of maintaining a clean, healthy and safe environment.

6. Assignment. The home health aide is assigned to a patient by a registered nurse in accordance with the plan of care. Specific written instructions for patient care are prepared by a registered nurse or therapist as appropriate. All personal care services are described to the patient, in writing, by the registered nurse in charge of that patient.

7. Supervision. A registered nurse or licensed therapist shall provide direct supervision to the home health aide as follows.

- a. A registered nurse shall supervise and evaluate the home health aide's ability to perform assigned duties, relate to the patient, and work effectively as a member of the health care team.
- b. Periodic on site supervision with the home health aide present shall be established as part of the agency's policies and procedures.
- c. If the patient is receiving a skilled service (nursing, physical therapy, occupational therapy, or speech-language pathology), the supervisory visits shall be made to the patient's residence at least once every two weeks (not to exceed 20 days) by the registered nurse or appropriate

therapist to assess relationships and determine whether goals are being met.

d. If the patient is not receiving skilled services, a registered nurse must make a supervisory visit to the patient's residence at least once every 62 days. In order to ensure that the aide is properly caring for the patient, the supervisory visit must occur while the home health aide is providing patient care.

e. Documentation of supervision shall include the aide-patient relationships, services provided, and instructions and comments given as well as other requirements of the clinical note.

f. Annual performance review for each aide shall be documented in the individual's personnel record.

8. In-service. The agency must offer a minimum of 12 hours of appropriate in-service training to each home health aide every calendar year. The in-service may be furnished while the aide is providing service to the patient, but must be documented.

a. These in-service sessions should include, but are not limited to: care of the body, communication, infection control, safety and documentation.

b. In-service training may be prorated for employees who only worked a portion of the year; however, part-time employees who work throughout the year must attend 12 hours of in-service training.

c. Documentation should include the outline and length of the in-service training.

#### E. Licensed Practical Nurse

1. Qualifications. A licensed practical nurse (LPN) must:

- a. be currently licensed by the Louisiana State Board of Practical Nurse Examiners with no restrictions;
- b. have worked at least one year as an LPN prior to being employed by a home health agency; and
- c. inform all employers when employed with one or more agencies and cooperate and coordinate to assure highest performance of quality when providing services to the patient.

2. Responsibilities. The LPN shall:

- a. perform skilled nursing services under the supervision of a registered nurse in accordance with the laws governing the practice of practical nursing.
- b. observe and report the patient's response to treatment and any changes in the patient's condition to the physician and supervising registered nurse;
- c. administer prescribed medications and treatments as permitted by the laws governing the practice of practical nursing;
- d. prepare clinical and/or progress notes and incorporate them into the clinical record at least weekly;
- e. perform wound care as ordered in accordance with the plan of care; and
- f. perform routine venipuncture (phlebotomy) if written documentation of competency is in personnel record. Competency must be evaluated by an RN even if LPN has completed a certification course.

3. Restrictions. The LPN shall not:

- a. access any intravenous appliance for any reason;
- b. perform supervisory visit for a home health aide;
- c. develop and/or alter the plan of care;
- d. make initial assessment visit;

- e. prepare the recertification;
- f. make aide assignments; or
- g. function as a supervisor of the nursing practice of any registered nurse.

#### F. Medical Social Services

1. Qualifications. A medical social worker must:
  - a. be currently licensed by the Louisiana Board of Certified Social Work Examiners; or
  - b. have a master's degree from a school of social work accredited by the Council on Social Work Education.
2. Responsibilities. The medical social worker shall:
  - a. assist the physician and other members of the health care team in understanding significant social and emotional factors related to the patient's health problems;
  - b. assess the social and emotional factors having an impact on the patient's health status, and assist in the formulation of the plan of care;
  - c. provide services within the scope of practice, as defined by state law, in accordance with the plan of care and in coordination with other members of the health care team;
  - d. prepare clinical and/or progress notes and incorporate them into the clinical record at least weekly;
  - e. participate in discharge planning and in-service programs related to the needs of the patient; acts as a consultant to other members of the health care team; and
  - f. submit a written assessment and summary of services provided when medical social work services are discontinued, including an assessment of the patient's current status that will be retained in the patient's clinical record.
3. Restrictions. An unlicensed medical social worker may not contract directly with the home health agency for clinical services, consultation, supervision or educational services.

#### G. Nutritional Guidance Services

1. Qualifications. If an agency provides or arranges for nutritional guidance, the staff member or consultant must be a professional dietitian who meets the qualification standards of the Commission on Dietetic Registration of the American Dietetic Association.
2. Responsibilities. The dietitian must:
  - a. document each visit made to the patient and incorporates notes into the clinical record on a weekly basis;
  - b. prepare initial nutritional dietary assessment;
  - c. communicates with the director of nurses, the nurse supervisor and/or the primary nurse assigned to the patient regarding the need for a continuation of services for each patient;
  - d. evaluate compliance with physician ordered therapeutic diet and makes recommendations as needed;
  - e. evaluate patient's socio-economic factors to develop recommendations concerning food purchasing, preparation and storage;
  - f. train those persons who are responsible for purchasing and storing food;
  - g. evaluate food preparation methods to ensure that nutritive value is conserved in addition to flavor, texture and temperature principles being adhered to in meeting the individual patient's needs;
  - h. participate in all related case conferences with agency staff. Minutes of case conferences are retained in patient's clinical record;

- i. prepare a written discharge summary and ensure that a copy is retained in patient's clinical record and a copy is forwarded to the attending physician;
- j. assess and evaluate the food and nutritional needs of the patient in accordance with the plan of treatment and the Recommended Daily Dietary Allowances established by the Food and Nutrition Board, National Academy of Sciences-National Research Council;
- k. participate in discharge planning and in-service training programs related to the needs of the patient and acts as a consultant to the other members of the health care team; and

1. ensure that a current diet manual (within five years of publication) is readily available to agency staff where applicable.

#### H. Occupational Therapist

1. Qualifications. An occupational therapist must be registered by the American Occupational Therapy Association, and currently licensed by the Louisiana Board of Medical Examiners.
  2. Responsibilities. The occupational therapist shall:
    - a. assist the physician in evaluating the patient's functional status and occupational therapy needs, and assist in the development of the plan of care;
    - b. provide services within the scope of practice as defined by the state laws governing the practice of occupational therapy, in accordance with the plan of care, and in coordination with other members of the health care team;
    - c. observe and report the patient's response to treatment and any changes in his/her condition to the physician and the supervising registered nurse;
    - d. instruct and inform participating members of the health care team, the patient, and the family/caregivers regarding the plan of care, functional limitations and progress towards goals;
    - e. prepare clinical and/or progress notes for each visit and incorporate them into the clinical record at least weekly;
    - f. when occupational therapy services are discontinued, submit a written summary of services provided, including an assessment of patient's current status, for retention in the patient's clinical record; and
    - g. provide supervision of the occupational therapy assistant (OTA) as follows:
      - i. be readily available to the OTA by telecommunications;
      - ii. assess the competency and experience of the OTA;
      - iii. establish the type, degree and frequency of supervision that is required for an OTA in a home health setting; and
      - iv. conduct a face-to-face patient care conference with each OTA once every two weeks, or once every four to six treatment sessions, to review progress and modification of treatment programs for all patients.
- #### I. Occupational Therapy Assistant
1. Qualifications. The Occupational Therapy Assistant (OTA) must:
    - a. be currently licensed by the Louisiana Board of Medical Examiners to assist in the practice of occupational

therapy under the supervision of a licensed Registered Occupational Therapist; and

b. have, at a minimum, two years experience as a licensed OTA before starting a home health caseload.

#### J. Physical Therapist

1. Qualifications. The physical therapist must be currently licensed by the Louisiana State Board of Physical Therapy Examiners and have graduated from a school with a physical therapy curriculum approved by:

- a. the American Physical Therapy Association; or
- b. the Council on Medical Education and Hospitals of the American Medical Association; or
- c. the Council on Medical Education of the American Medical Association and the American Physical Therapy Association.

2. Responsibilities. The physical therapist shall:

- a. assist the physician in evaluating the patient's functional status and physical therapy needs, and assist in the development of the plan of care;
- b. provide services within the scope of practice as defined by the state laws governing the practice of physical therapy, in accordance with the plan of care, and in coordination with other members of the health care team;
- c. observe and report the patient's reaction to treatment and any changes in his/her condition to the physician and the supervising registered nurse;
- d. instruct and inform participating members of the health care team, the patient, and the family/caregivers regarding the plan of care, functional limitations and progress towards goals;
- e. prepare clinical and/or progress notes for each visit and incorporate them into the clinical record at least weekly.
- f. when physical therapy services are discontinued, prepare a written discharge summary and ensure that a copy is retained in the patient's clinical record and a copy is forwarded to the attending physician;
- g. may supervise home health aides in lieu of a registered nurse if physical therapy is the only skilled service being provided;
- h. provide supervision to a physical therapy assistant (PTA) as follows:
  - i. be readily accessible by telecommunications;
  - ii. evaluate and establish a written treatment plan on the patient prior to implementation of any treatment program;
  - iii. treat and reassess the patient on at least every sixth visit, but not less than once per month;
  - iv. conduct a face-to-face patient care conference once a week with each PTA to review progress and modification of treatment programs for all patients; and
  - v. assess the final treatment rendered to the patient at discharge and write a discharge summary.

#### K. Physical Therapy Assistant

1. Qualifications. The physical therapy assistant (PTA) must be currently licensed by the Louisiana State Board of Physical Therapy Examiners and be supervised by a licensed physical therapist. The PTA must have, at a minimum, one year of experience as a licensed PTA before assuming responsibility for a home health caseload.

2. Restrictions. The PTA's duties shall not include interpretation and implementation of referrals or

prescriptions, performance evaluations, or the determination or major modifications of treatment programs.

#### L. Registered Nurse

1. Qualifications. The registered nurse (RN) must be currently licensed by the Louisiana State Board of Registered Nurse Examiners without restrictions and have, at a minimum, one year of clinical experience as a registered nurse. This requirement may be waived for a registered nurse with recent clinical experience as a LPN or an RN currently working for a home health agency at the time this rule takes effect.

a. Special Qualifications. In addition to the above qualifications, a RN must have one of the following credentials in order to provide psychiatric nursing services. Work experience must have been obtained within the last five years. If experience is not within the five-year time period, then documentation must be provided to support either psychiatric retraining, classes, or CEUs to update psychiatric knowledge:

- i. a master's degree in psychiatric or mental health nursing; or
- ii. a bachelor's degree in nursing and one year of work experience in an active treatment unit in a psychiatric or mental health facility or outpatient mental health clinic; or
- iii. a diploma or associate degree and two years of work experience in an active treatment unit in a psychiatric or mental health hospital or outpatient clinic.

2. Responsibilities. The registered nurse shall:

- a. provide or supervise skilled nursing services in accordance with physicians orders;
- b. assess and regularly re-evaluate the nursing needs of the patient;
- c. develop, initiate, implement, and update the plan of care as needed or at least every 62 days, or as needed;
- d. provide specialized nursing services, which may include treatments and diagnostic and preventive procedures;
- e. initiate preventive and rehabilitative nursing procedures as appropriate for the patient's care and safety;
- f. coordinate services and inform the physician and other personnel of changes in the patient's condition and needs;
- g. teach, supervise and counsel the patient, family members and other members of the health care team regarding the nursing care needs and other related problems of the patient at home;
- h. prepare clinical and/or progress notes and incorporate them into the clinical record at least weekly;
- i. observe and report the patient's response to treatment and any changes in his/her condition to the physician and supervising registered nurse;
- j. conduct on-site supervisory evaluations at least every six months of each licensed practical nurse while he/she is providing care and document such supervision in the LPN's personnel file;
- k. conduct on-site supervision of patient care provided by the home health aide; and
- l. function as patient advocate in all medical decisions affecting the patient.

3. Restrictions. A registered nurse applicant may not work in the home health setting as a registered nurse.

#### M. Speech Pathology Services

1. Qualifications. The speech pathologist must be currently licensed by the Louisiana State Board of Examiners of Speech Pathology and Audiology and certified by the American Speech and Hearing Association, or has completed the academic requirements and is in the process of accumulating the necessary supervised (as directed by the state agency certifying body) work experience required for certification.

2. Responsibilities. The speech pathologist shall:

a. assist the physician and other members of the health care team in evaluating the patient's speech or language needs and formulating the plan of care;

b. provide services within the scope of practice as defined by the state law governing the practice of speech pathology, in accordance with the plan of care and in coordination with other members of the health care team;

c. observe and report the patient's response to treatment and any changes in the patient's condition to the physician and supervising registered nurse;

d. instruct and inform participating members of the health care team, the patient, and the family/caregivers regarding the plan of care, functional limitations and progress towards goals;

e. prepare clinical and or progress notes for each visit and incorporate them into the clinical record at least weekly; and

f. submit a written summary of the services provided when speech therapy services are discontinued, including an assessment of the patient's current status, which shall be retained in the patient's clinical record.

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### **§9105. State Licensure**

#### **A. Procedures for Initial Licensure**

1. The Department of Health and Hospitals is the only licensing authority for home health agencies in the State of Louisiana. To initiate the review process for licensure as a home health agency, the applicant must submit the following:

a. a completed home health application form;

b. the required fee for licensure by corporate check, certified check or money order. This fee is non-refundable;

c. documentation of a line of credit from a licensed lending agency for at least \$75,000 as proof of adequate finances to sustain an agency for at least six months;

d. proof of general and professional liability insurance as well as worker's compensation insurance. The general and professional liability coverage shall be for at least \$300,000. The agency must maintain these insurance requirements at all times, and be able to provide proof of insurance upon request;

e. résumés and documentation of qualifications for administrator and director of nursing. Additional information may not be submitted after the original résumé is submitted for review, except for changes in the designated positions or with approval of the Health Standards Section;

f. proof of criminal background investigations on the owners and administrative personnel. If the agency is a

corporation, proof of criminal background investigations on all directors and officers shall also be submitted;

g. written documentation of any financial or familial relationship with any other entity providing home health care services in the state;

h. proof of citizenship or a valid green card for all administrative personnel, officers, directors and owners; and

i. any other forms for initial licensure as required by the Health Standards Section.

2. An application will not be reviewed until payment of application fee has been received. All requirements of the application process must be completed by the applicant within 90 days of the date of the initial submission of the home health license application. Upon approval of the application by DHH, the applicant must agree to become fully operational and prepared for initial survey within 90 days. Any application not completed within 90 days after the initial submission will be closed.

3. The applicant will be notified in writing when the application process is completed and the application is approved. The applicant will receive instructions regarding requesting an initial licensing survey.

4. Approved applicants must be fully operational, in compliance with all licensing standards and providing care to only two patients at the time of the initial survey.

5. If an applicant requests to be certified for Medicare and/or enrolled in Medicaid prior to the initial survey, the applicant must also be in compliance with the Medicare Conditions of Participation for home health agencies (42 CFR Part 484) at the time of the licensing survey.

B. Types of Licenses. The Department of Health and Hospitals shall have the authority to issue the three types of licenses described below:

1. Full License issued to those agencies that have achieved substantial compliance with the Minimum Standards.

2. Administrative Provisional License may be issued to an existing agency that has paid the annual renewal fee, but the survey process was not completed before the expiration of its license.

3. Provisional License may be issued to those existing agencies that do not meet criteria for full licensure. Such licenses may be issued to any agency by the department when the agency:

a. receives more than five violations of the minimum standards in a one-year period;

b. receives more than three valid complaints in a one-year period;

c. has placed a patient at risk according to a documented incident;

d. fails to correct deficiencies within 60 days of being cited;

e. fails to submit assessed fees after notification by the department;

f. has an owner, administrator, or director of nurses who has pled guilty or nolo contendere to a felony, or been convicted of a felony as documented by a certified copy of the record of the court of conviction. If the applicant is a firm or corporation, a provisional license may also be issued when any of the members, officers, or the person designated to manage or supervise the agency has been convicted of a felony; or

- g. fails to notify the department in writing within 30 days of the occurrence of a change in any of the following:
  - i. controlling ownership;
  - ii. administrator;
  - iii. director of nursing or alternate;
  - iv. address/telephone number; either parent or branch;
  - v. hours of operation;
  - vi. after-hours contact procedures.

C. Licensure Renewal

1. Full License

a. A full license shall be for a term of one year and shall expire on the date shown on the license unless it is renewed.

b. It is the responsibility of the agency to ensure that a renewal application and appropriate fees are submitted to the Department at least 30 days prior to the expiration of the existing license.

2. Provisional License

a. A provisional license shall be valid for six months or until its expiration date.

b. Any agency issued a provisional license shall pay an additional amount equal to the annual fee for each follow-up survey. Fees shall be paid to the Department prior to the survey being performed and shall be non-refundable.

D. Display of License. The agency's current license shall be displayed in a conspicuous place in the agency at all times.

E. Survey Process

1. Initial. An on-site survey will be conducted to assure compliance with the Minimum Standards. The request for initial licensing survey will be accepted after the applicant has been notified in writing by the Department that the application process is completed and the applicant is approved for an initial survey. This survey will be unannounced and the agency will have only one opportunity to be in compliance with the Minimum Standards. If the initial survey finds that the agency is not in substantial compliance with the Minimum Standards, then the agency shall transfer all patients and close.

2. Renewal. An unannounced, on-site visit will be conducted to assure compliance with the Minimum Standards. This annual survey may be conducted in conjunction with a survey for Medicare re-certification or other reasons.

3. Follow-up. An unannounced survey may be conducted following an annual, complaint, or previous follow-up survey when the agency is not in substantial compliance with the Minimum Standards.

4. Complaint Investigation. The Department of Health and Hospitals has the authority to conduct investigations regarding home health agencies. A complaint investigation may be conducted during an unannounced on-site visit or by telephone, as appropriate.

5. Violations of Minimum Standards. If the agency is found to be in violation of the Minimum Standards during any survey, a statement of deficiencies listing those violations will be issued to the agency. The agency must respond to these violations with an acceptable plan of correction, which must be submitted to the Department. The plan of correction must be received by the Department within 10 days of receipt of the statement of deficiencies by

the agency. A follow-up survey may be conducted to assure that the agency has achieved substantial compliance with the Minimum Standards. If the follow-up survey reveals that the agency is still not in substantial compliance with the Minimum Standards, then a provisional license may be issued or a revocation action may be initiated in accordance with R.S.40:2116.32 and R.S. 40:2116.36. The agency has one opportunity to question allegations of deficient practice through an informal dispute resolution process. The agency receives a notice of its right to request the informal dispute resolution process with the statement of deficiencies.

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HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 22:1135 (November 1996), LR 27:2245 (December 2001).

**§9107. Fees**

A. Licensing Fee. A licensing fee, in the amount determined by DHH, is required to be submitted with the initial application. The Department will not consider an application as complete without the required licensing fee.

B. Renewal Fee. A license renewal fee is required to be submitted annually to the Department prior to the expiration of the license.

C. Change Fee. A fee is required to be submitted for any change involving the agency business name or address, including branch offices.

D. Change of Ownership Fee. A fee equal to the amount of licensing fee is to be paid to the department by the new owner when a change of ownership occurs.

E. Branch Fee. A fee shall be paid when a new branch office is established. The branch fee shall be submitted annually with the license renewal fee.

F. Provisional License Fee. Any agency issued a provisional license shall pay an additional amount equal to the annual fee for each follow-up survey. Fees shall be paid to the department prior to the survey being performed and shall be non-refundable.

Note: All fees submitted to the department must be in the form of a certified check, company check, or money order.

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**§9109. Changes**

A. Notice of Changes. The Department shall be notified in writing or by facsimile within 24 hours of the occurrence of any of the following changes:

- 1. geographic address of the parent or branch office (change fee required);
- 2. name of the agency (change fee required);
- 3. mailing address (if different from geographic address);
- 4. telephone number or fax number of the parent or branch office;
- 5. hours of operation;
- 6. 24 hour contact procedures;
- 7. administrator or DoN;
- 8. controlling ownership;
- 9. closure of the agency or a branch.



B. Change of Ownership. The department shall be notified in writing of a change of ownership or change of controlling interest.

1. A change of ownership (CHOW) packet is required to be submitted with required fees.

2. When a change in controlling interest occurs, written documentation and disclosure of the change must be submitted.

3. The purchaser of the agency must meet all criteria for an initial application for licensure. (See §9105. State Licensure.)

C. Voluntary Termination of License. If at any time the agency ceases to operate, the agency shall notify the department in writing and surrender its license to the department within five working days of the cessation of business.

D. Relocation of an Agency. The department shall be notified in writing of any relocation of an agency. An agency may only relocate within its geographic service area in effect on August 15, 1995, or for an agency licensed after that date, a 50-mile radius of the location where the agency was originally licensed.

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#### **9111. Denial, Revocation or Nonrenewal of License**

A. Denial of Licensure Applications. If an agency's license is revoked or denied renewal, no other home health agency license application will be accepted from that agency for approval by the Department for two years from the date of the revocation or denial of renewal of the license.

B. Grounds for Denial or Revocation of License. The Department of Health and Hospitals may deny an application for a license, refuse to renew a license or revoke a license in accordance with R.S. 40:2116.36 and 40:2116.37.

C. Grounds for Immediate Denial or Revocation. A license shall be immediately denied or revoked if the department determines that the agency either knowingly and willfully or through gross negligence allowed or directed actions which resulted in:

1. cruelty to patients;
2. failure to uphold patient rights resulting in actual or potential harm or injury;
3. failure to protect patients or persons in the community from the harmful actions of the agency employees including, but not limited to: coercion, threat, intimidation, solicitation and harassment;
4. failure to notify an appropriate governmental agency of any suspected cases of neglect, criminal activity, or mental or physical abuse that could potentially cause harm to the patient;
5. acceptance of a patient when the agency has insufficient capacity to provide care for that patient;
6. misrepresentation or other fraudulent conduct in any aspect of the conduct of home care business;
7. bribery, harassment, or intimidation of any person designed to cause that person to use the services of any particular home health agency;

8. pleading guilty or nolo contendere to a felony, or being convicted of a felony by an owner, administrator, or director of nursing as documented by a certified copy of the record of the court of conviction. If the applicant is a firm or corporation, a license may also be immediately denied or revoked when any of its members, officers, or the person designated to manage or supervise the home care has been convicted of a felony. For purposes of this Paragraph, *conviction of a felony* means and includes:

a. conviction of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or Title XX services program since the inception of those programs;

b. conviction of a felony relating to violence, abuse, and/or negligent of a person; or

c. conviction of a felony related to the misappropriation of property belonging to another person.

D. Additional Grounds for Denial or Revocation. A license may be denied, revoked or not renewed for failure to correct any violation of law and regulation for which a provisional license may have been issued under R.S. 40:2116.

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HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), amended LR 22:1135 (November 1996), LR 27:2247 (December 2001).

#### **§9113. Informal Dispute Resolution Process, Notice and Appeal Procedure**

A. Informal Dispute Resolution Process. An agency has one opportunity to question citations of deficient practice through an informal dispute resolution process. To request an informal dispute resolution discussion, the agency must submit a written request specifying the deficient practice(s) that are being disputed and why the agency is questioning the deficient practice(s). The request must be made within 10 days of the date of the agency's receipt of the notice of the deficient practice(s). Reconsideration shall be made solely on the survey report, statement of violations and all documentation the agency submits to the Department at the time of its request for reconsideration. Correction of a violation shall not be a basis for reconsideration. Since this is an informal dispute resolution discussion, it is not necessary for the agency's attorney to be present. However, if the agency wishes to include their attorney in the informal dispute resolution discussion, the agency must indicate this in their written request. The informal dispute resolution process is not in lieu of the appeals process and does not extend the time limits for filing an administrative appeal.

B. Notice. Notice of reasons for nonrenewal or revocation of a license shall be given in accordance with the current Louisiana Revised Statutes.

C. Administrative Appeal Process. When an administrative appeal is requested in a timely and proper manner, the Department of Health and Hospitals shall provide an administrative hearing in accordance with the provisions of the Louisiana Administrative Procedure Act and the current Louisiana Revised Statutes.

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HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 27:2247 (December 2001).

### **§9115. Agency Operations**

A. Hours of Operation. An agency shall be required to have regular posted business hours and be fully operational at least eight hours a day, five days a week between 7 a.m. and 6 p.m. Patient care services shall be made available as needed 24 hours a day, seven days a week.

B. Operational Requirements.

1. A home health agency shall:

a. be open for the business of providing home health care services;

b. post its hours of operation and emergency contact procedures in a prominent and easily accessible manner;

c. have a registered nurse immediately available by telecommunications at all times;

d. respond to patient care needs and physician orders in a timely manner;

e. be able to accept referrals at all times;

f. have at least two patients at all times;

g. have adequate staff to provide for patient care needs according to accepted standards of practice;

h. have policies and procedures specific to the agency which address staff responsibilities and qualifications; agency operations; patient care standards; problem and complaint resolution; purpose and goals of operation; and regulatory and compliance subjects;

i. have policies and procedures that are written, current, and annually reviewed by appropriate personnel;

j. accept medical orders only from a physician or authorized physician representative (e.g., hospital discharge planner);

k. use only factual information in advertising;

l. have an emergency preparedness plan (which conforms to the Louisiana Model Home Health Emergency Preparedness Plan) designed to manage the consequences of natural disasters or other emergencies that disrupt the home health agency's ability to provide home health services;

m. limit the geographic service area of the agency to a 50-mile radius of the parent agency;

n. act as the patient advocate in medical decisions affecting the patient;

o. protect the patient from unsafe clinical practices;

p. ensure that staff is competent in the treatments and procedures provided to patients prior to the treatments or procedures being provided;

q. operate within the laws and regulations of all local, federal and state agencies that have authority over the operations of such businesses;

r. notify the Department of any change of address, services added or ceased, and change of all key employees in accordance with §9109;

s. maintain general and professional liability insurance with minimum limits of \$300,000 and workers' compensation insurance in the minimum statutory amount.

2. A home health agency may:

a. participate as educators in public health fairs and may provide free non-invasive services, such as blood pressure screenings; and

b. advertise its services and provide truthful and accurate informational material to the public in so doing.

3. A home health agency shall not:

a. harass, bribe, coerce, or intimidate any patient to change agencies or to select an agency;

b. allow, permit, or encourage any employee or volunteer representing the agency to harass, bribe, coerce, or mistreat any patient in any manner or form; and

c. advertise untruthfully regarding the services provided, professional credentials of any employee, accreditation awards, or other such information that misleads and misinforms the public.

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HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR18:57 (January 1992), amended LR 21:177 (February 1995), LR 27:2248 (December 2001).

### **§9117. Operation of Branch Offices**

A. Branch Office Approval. No branch office may be opened without written approval from the Department. In order for a branch office to be approved, the parent agency must have full licensure for at least one year. Branch office approval will be renewed at the time of renewal of the parent agency's license if the parent agency meets the requirements for licensure.

B. Identification. The branch shall be held out to the public as a branch or division of the parent agency, so that the public will be aware of the identity of the agency operating the branch. Reference to the name of the parent agency shall be contained in any written documents, signs, or other promotional materials relating to the branch.

C. Personnel Records. Original personnel files shall not be maintained at the branch office.

D. Survey. A branch office is subject to survey by the Department at any time to determine compliance with the Minimum Standards that apply to branches.

E. Operational Requirements. A branch office shall:

1. serve a part of the geographic service area approved for the parent agency;

2. offer all home health services provided by the parent agency;

3. retain all original clinical records for its patients. Duplicate records need not be maintained at the parent agency, but shall be made available to federal/state surveyors during any review upon request; and

4. maintain a statement of personnel policies on site for staff usage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 2001), amended LR 21:177 (February 1995), LR 27:2248 (December 2001).

### **§9119. Personnel Policies and Records**

A. Personnel Policies. Each home health agency will formulate and adhere to personnel policies. The policies will be reviewed on an annual basis and must specify agency requirements with regard to the following:

1. hours of work;

2. an organizational chart down to the patient care level;

3. job description and realistic performance expectations for each category of personnel;

4. an annual employee health screening in accordance with current local, federal, and state laws;

5. an outline of the planned orientation to be provided to each employee, including the length of the orientation;

6. annual personnel evaluations as well as annual verification of current Louisiana licensure and certification of applicable health professionals;

7. continuing education related to health care activities:

a. health professionals must attend in-service training as required by respective licensing boards.

b. home health aides must attend in-service training 12 hours per calendar year;

8. disciplinary actions;

9. grievance proceedings;

10. specifications for employee health/safety;

11. payroll; and

12. criminal background investigations ("history check"), if applicable.

B. Personnel Records. Original personnel files must be maintained either at the parent agency or integrated with the human resources department of a hospital, agency home office or the parent corporation of the agency. Personnel records must be made available to surveyors on request. There shall be a personnel record on file for each employee and contract staff member including, but not limited to the following information:

1. name, address and telephone number;

2. job application/resume';

3. the results of an annual employee health screening in accordance with current local, federal, and state laws;

4. current license or certification verification, if applicable;

5. current job description, including duties to be performed;

6. documentation of orientation;

7. current contract, if applicable;

8. annual personnel evaluations;

9. documentation of continuing education; and

10. criminal background investigation ("history check"), if applicable.

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HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 27:2248 (December 2001).

#### **§9121. Emergency Preparedness**

A. The home health agency shall have an emergency preparedness plan which conforms to the current Office of Emergency Preparedness model plan and is designed to manage the consequences of natural disasters or other emergencies that disrupt the home health agency's ability to provide care and treatment or threaten the lives or safety of its clients. The home health agency is responsible for obtaining a copy of the current Home Health Emergency Preparedness Model Plan from the Louisiana Office of Emergency Preparedness.

B. At a minimum, the agency shall have a written plan that describes:

1. the evacuation procedures for agency clients who require community assistance as well as for those with available caregivers to another location;

2. the delivery of essential care and services to agency clients, whether they are in a shelter or other locations;

3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions;

4. a plan for coordinating transportation services required for evacuating agency clients to another location; and

5. assurance that the agency will notify the client's family or caregiver, if client is evacuated to another location.

C. The home health agency's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The home health agency's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if the agency's performance during an actual emergency or a planned drill indicates that it is necessary.

D. Any updates or revisions to the plan shall be submitted to the parish Office of Emergency Preparedness for review. The parish Office of Emergency Preparedness shall review the home health agency's plan by utilizing community wide resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

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#### **§9123. Patient Care Standards**

A. Admission Criteria. The home health agency shall follow written policies in making decisions regarding the acceptance of patients for care. Decisions must be based upon medical and social information provided by the patient's attending physician, and the patient and/or the family as well as the agency resources available to meet the needs of potential patients. The home health agency shall accept patients for care without regard to age, color, creed, sex, national origin or handicap. Patients shall be admitted to an agency based on the following written criteria:

1. the ability of the agency and its resources to provide services on a timely basis (within 24 hours unless specified otherwise by physician's order);

2. the willingness of the patient and caregiver to participate in the plan of care;

3. the patient's medical, nursing or social needs can be adequately met in his/her residence; and

4. all other criteria required by any applicable payor source(s).

B. Admission Procedure. Patients are to be admitted only upon the order of the patient's physician. The patient shall have the right to choose a physician and a home health agency without interference. Admission procedures are as follows:

1. an initial visit shall be made by a registered nurse or an appropriate therapist who will perform the assessment and instruct the patient regarding home care services. This visit shall be made within 24 hours of referral unless otherwise ordered by physician;

2. an initial Plan of Care (PoC) must be completed by a R.N. or an appropriate therapist and incorporated into the patient's clinical record within seven days from the start of care; and

3. documentation shall be obtained at admission and retained in the clinical record including:

- a. the referral for home care and/or physician's order to assess patient;
- b. a history;
- c. a physical assessment;
- d. a functional assessment, including a listing of all ADL's;
- e. current problems, needs, and strengths;
- f. prescribed and over-the-counter medications currently used by the patient;
- g. services needed, including frequency and duration expected;
- h. defined expected outcomes, including estimated date of resolution;
- i. ability, availability, and willingness of potential care-givers;
- j. barriers to the provision of care;
- k. orientation, which includes:
  - i. advanced directives;
  - ii. agency services;
  - iii. patient's rights and responsibilities, including the telephone number for the home health hotline;
  - iv. agency contact procedures; and
  - v. conflict resolution;
- l. freedom of choice statement signed by patient or patient representative; and
- m. other pertinent information.

C. Plan of Care. The plan of care (PoC) for each patient must be individualized to address the patient's problems, goals, and required services.

1. The PoC, telephone and/or verbal orders must be signed by the physician within a timely manner, not to exceed 30 days.

a. The physician's verbal orders may be accepted by a registered nurse, a qualified therapist or a licensed practical nurse as authorized by state and federal laws and regulations.

b. Verbal orders taken by an LPN must be cosigned by an RN or appropriate therapist.

2. Agency staff shall administer services and treatments only as ordered by the physician.

3. A PoC for continuation of services must be completed by a R.N. or an appropriate therapist and incorporated into the patient's clinical record within seven days from the date of the development of the PoC.

D. Review of the Plan of Care. The total plan of care must be reviewed by the patient's attending physician in consultation with the agency's professional personnel at such intervals as required by the severity of the patient's illness, but at least once every two months.

E. Drugs and Biologicals. The agency shall institute procedures that protect the patient from medication errors. Agency policy and procedures shall be established to insure that agency staff have adequate information regarding the drugs and treatments ordered for the patient.

1. Agency staff will only administer drugs and treatments as ordered by the physician.

2. Only medications dispensed, compounded or mixed by a licensed pharmacist and properly labeled with the drug name, dosage, frequency of administration and the name of the prescribing physician shall be administered.

3. The agency will provide verbal and written instruction to patient and family as indicated.

F. Coordination of Services. Patient care goals and interventions must be coordinated in conjunction with providers, patients and/or caregivers to ensure appropriate continuity of care from admission through discharge.

1. All agencies shall provide for nursing services at least eight hours a day, five days a week and be available on emergency basis 24 hours a day, seven days a week. Agencies must maintain an on-call schedule for R.N.s.

2. The agency must maintain a system of communication and integration of services, whether provided directly or under arrangement, that ensures identification of patient needs and barriers to care, the ongoing coordination of all disciplines providing care, and contact with the physician regarding for relevant medical issues.

#### G Discharge Policy and Procedures

1. The patient may be discharged from an agency when any of the following occur:

a. the patient care goals of home care have been attained or are no longer attainable;

b. a caregiver has been prepared and is capable of assuming responsibility for care;

c. the patient moves from the geographic service area served by the agency;

d. the patient and/or caregiver refuses or discontinues care;

e. the patient and/or caregiver refuses to cooperate in attaining the objectives of home care;

f. conditions in the home are no longer safe for the patient or agency personnel. The agency shall make every effort to satisfactorily resolve problems before discharging the patient;

g. the patient's physician fails to renew orders for the patient;

h. the patient, family, or third-party payor refuses to meet financial obligations to agency;

i. the patient no longer meets the criteria for services established by the payor source;

j. the agency is closing out a particular service or any of its services;

k. death of the patient.

2. The agency must have discharge procedures that include, but are not limited to:

a. notification of the patient's physician;

b. documentation of discharge planning in the patient's record;

c. documentation of a discharge summary in the patient's record; and

d. forwarding of the discharge summary to the physician, if requested.

3. The following procedures shall be followed in the event of the death of a patient in the home:

a. the proper authorities shall be notified immediately in accordance with state and local ordinances;

b. the home health agency parent office shall be notified;

c. the home health agency personnel in attendance shall offer whatever assistance they can to the family and others present at scene; and

d. progress notes shall be completed in detail and must include observations of the patient, any treatment

provided, individuals notified, and time of death, if established by the physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

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### **§9125. Patient Rights**

A. The patient must be informed of his or her rights in receiving home care services. The patient has the right to exercise his/her rights as a patient of the home health agency. If the patient has been judged incompetent, the family or guardian may exercise the patient's rights. The agency must protect and promote the exercise of these rights.

1. Notice of Rights. The agency must provide the patient with a written notice of the patient's rights in advance of furnishing care to the patient or during the initial evaluation visit before the initiation of treatment. The agency must maintain documentation that it has complied with the requirements of this section.

2. Right to be Informed and to Participate in Planning Care and Treatment. The patient has the right to be informed, in advance, about the care to be furnished and of any proposed changes in the care being furnished. The patient also has the right to participate in the planning of care and to be informed regarding advance directives.

a. The agency must advise the patient, in advance, of the disciplines that will furnish care and the proposed frequency of visits to be furnished.

b. The agency must advise the patient of any proposed change in the plan of care before the change is made.

c. The agency must advise the patient, in advance, of his/her right to participate in the planning of care or treatment as well as in the planning of changes in care or treatment.

d. The agency must inform and distribute written information to the patient, in advance, concerning its policies on advance directives, including a description of applicable state law. The advance directives information may be given to a patient at the time of the first home visit, as long as the information is furnished before care is provided. The agency must maintain written policies and procedures regarding advance directives.

3. Right to Respect for Person and Property. The patient has the right to be treated with respect and to have his/her property treated with respect. The patient also has the right to file a grievance regarding the treatment or care that is or is not being furnished, or regarding the lack of respect for property by anyone who is furnishing services on behalf of the agency. The patient shall not be subjected to discrimination or reprisal for filing a grievance.

a. The agency must investigate complaints made by a patient or the patient's family or guardian regarding the treatment or care that is or is not being furnished, or regarding the lack of respect for the patient's property by anyone furnishing services on behalf of the agency. The agency must document both the receipt and subsequent resolution of the complaint.

4. Right to Confidentiality of Medical Records. The patient has the right to expect the agency to maintain the confidentiality of his/her clinical records. The agency must advise the patient of its policies and procedures regarding disclosure of clinical records.

5. Right to be Informed about Patient liability for Payment.

a. The patient has the right to be advised, before care is initiated, of his/her liability for payment for services furnished by the agency. Before care is initiated, the agency must inform the patient, orally and in writing, of:

i. the charges for services furnished by the agency;

ii. those charges for services that will not be covered by the patient's payor source; and

iii. the charges that the patient may be responsible for paying.

b. The patient has the right to be advised, orally and in writing, of any changes to the preceding requirements when they occur.

i. The agency must advise the patient of these changes orally and in writing as soon as possible, but no later than 30 calendar days from the date that the agency becomes aware of a change.

6. Home Health Hotline. The patient has the right to be advised of the availability of the state's toll-free home health hotline. When the agency accepts a patient for treatment or care, the agency must advise the patient, in writing, of the telephone number of the state's home health hotline, the hours of its operation, and that the purpose of the hotline is to receive complaints or questions about local home health agencies. The patient also has the right to use this hotline to lodge complaints concerning the implementation of advance directives requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 27:2251 (December 2001).

### **§9127. Contract Services**

A. An agency may contract with other companies or individuals to provide services to a patient. However, the agency is responsible for the management of the patient's care and for all services provided by the contractor or its personnel.

1. Contract Requirements. Whenever services are provided by an outside agency or individual, there must be a written contract. The contract shall include all of the following items:

a. designation of the services that are being arranged for by contract;

b. specification of the period of time that the contract is to be in effect, if it is for a specified time period;

c. a statement that services provided to the patient are in accordance with a plan of care established by the patient's physician in conjunction with the home health agency staff and, when appropriate, others involved in the patient's care;

d. a statement that services are being provided within the scope and limitations set forth in the plan of care, and may not be altered in type, scope, or duration by the contractor;

e. assurance that the contractor meets the same requirements as those specified for home health agency personnel such as staff qualifications, functions, evaluations, orientation and inservice training. The agency shall be responsible for assuring the contractor's compliance with the personnel policies required for a home health agency during the contractual period;

f. assurance that the contractor completes the clinical record in the same timely manner as required by the staff personnel of the agency;

g. payment of fees and terms; and

h. assurance that reporting requirements are met.

B. **Contract Review.** The home health agency and contractor shall document review of their contract on an annual basis.

C. **Coordination of Contract Services.** The home health agency shall coordinate services with contract personnel to assure continuity of patient care.

Note: Administration and one other service must be provided directly by the agency at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 27:2251 (December 2001).

#### **§9129. Clinical Records**

A. **Requirements.** A clinical record containing past and current findings shall be maintained for every patient who is accepted by the agency for home health service. In addition, the agency must comply with the following requirements for clinical records.

1. The information contained in the clinical record must be accurate and immediately available to the patient's physician and appropriate home health agency staff. The record may be maintained electronically.

2. All entries must be legible, clear, complete, and appropriately authenticated and dated. Authentication must include signatures or a secured computer entry with the unique identifier of a primary author who has reviewed and approved the entry.

3. The original clinical records of active patients may be kept in the branch office for the convenience of the staff providing services. The records of patients whose services are provided by parent office staff must be kept in that office.

4. All clinical records shall be safeguarded against loss, destruction and unauthorized use.

5. A signed "consent for treatment" form must be obtained from the patient and/or the patient's family and retained in the record.

6. When applicable, a signed "release of information" form must be obtained from the patient and/or the patient's family and a copy must be retained in the record.

7. A written summary report for each patient must be sent to the attending physician every two months.

8. If a patient is transferred to another health facility, a copy of the records, a transfer form, or a discharge summary must be sent with the patient.

9. Records shall be made available to DHH staff upon request.

10. Records must be retained for five years from the date on which the record was established unless there is an audit or litigation, which involves the record.

11. The agency must have internal policies that provide for the retention of clinical records even if the agency discontinues operation.

B. **Clinical Note.** A clinical note shall be legibly written by the person making the visit and incorporated into the clinical record within one week of the visit. A patient care clinical note must be completed on each visit and must contain the following:

1. the date of the visit;

2. time of arrival;

3. time of exit;

4. services rendered and/or justification for the visit;

5. signature of the person making the visit;

6. vital signs, according to physician's order or accepted standards of practice; and

7. comments when indicated.

Note: The patient or a responsible person must sign the permanent record of visit that is retained by the agency.

However, it is not necessary for the patient or a responsible person to sign on the clinical note.

C. **Clinical Record Contents.** An active clinical record shall contain all of the following documentation:

1. the initial assessment;

2. the current plan of care signed and dated by the physician. If the physician does not date the PoC when it is signed, then the agency must date it when the signed PoC is received from the physician;

3. the current comprehensive assessment;

4. the current clinical notes for at least the past 60 days, including a description of measurable outcomes relative to the goals in the PoC that have been achieved;

5. identifying data, including:

a. name;

b. address;

c. date of birth;

d. gender;

e. agency case number; and

f. next of kin;

6. the date that care started;

7. attending physician data, including:

a. name;

b. address; and

c. telephone number;

8. the diagnoses, including all conditions relevant to the current plan of care;

9. the types of services rendered, including frequency, duration and the applicable clinical notes;

10. a list of current medications indicating the drug, dosage, frequency, route of administration if other than oral, dates that a drug was initiated and discontinued, drug allergies, dates that non-prescription remedies were initiated and discontinued, side effects and a tracking procedure, and any adverse reactions experienced by the patient;

11. the current medical orders;

12. diet;

13. functional status;

14. rehabilitation potential;

15. the prognosis;

16. durable medical equipment available and/or needed;

17. when applicable, a copy of the transfer form that was forwarded to the appropriate health care facility that will be assuming responsibility for the patient's care; and

18. the discharge summary which shall be available to physicians upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), amended LR 22:1135 (November 1996), LR 27:2252 (December 2001).

**§9131. Continuous Quality Improvement**

A. The agency shall have written policies requiring that an overall evaluation of the agency's total program be conducted at least once a year by a group of professional personnel (or a committee of this group), agency staff, and consumers or by a independent group of professionals outside the agency working in conjunction with consumers. The evaluation shall consist of an overall policy and administrative review and a clinical record review. The evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective, and efficient. The results of the evaluation must be reported to and acted upon by those persons who are responsible for the operation of the agency. The evaluation results shall be maintained separately as administrative records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 27:2253 (December 2001).

David W. Hood  
Secretary

0112#114

**RULE**

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

**Private Nursing Facilities C  
Reimbursement Rate Increase**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is adopted 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 adjusts the percentile utilized for all cost components, except profit incentive, from the sixtieth to the sixty-second percentile.

The Bureau of Health Services Financing establishes the following reimbursement rates for private nursing facility services:

Level Of Care	Daily
Skilled Nursing	\$85.42
Intermediate Care I	\$81.50
Intermediate Care II	\$81.50
Skilled Nursing C Infectious Disease	\$258.71
Skilled Nursing C Technology Dependent Care	\$246.61

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

David W. Hood  
Secretary

0112#117

**RULE**

**Department of Insurance  
Office of the Commissioner**

**Rule No. 9C Pre-Licensing Requirements;  
Education Advisory Council  
(LAC 37:XI.Chapter 5)**

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner of Insurance has amended Rule 9, Pre-licensing Education Requirements; Education Advisory Council, LAC 37:XI. Chapter 5.

The Department of Insurance has amended this Rule to become effective upon publication in the December 2001 edition of the *Louisiana Register*. This action complies with the statutory law administered by the Department of Insurance.

When last published, the Rule had two forms attached labeled as Sections 527, Appendix 1 and 529, Appendix 2 respectively. These forms were not intended to be part of the Rule proper and are readily available to Pre-licensing instructors and providers through the Department of Insurance.

**Title 37  
INSURANCE  
Part XI. Rules**

**Chapter 5. Rule Number 9C Pre-Licensing  
Requirements; Education Advisory  
Council**

**§505. Effective Date**

A. The original effective date of this Rule was July 1, 1989. The re-promulgated Rule shall become effective upon final publication in the *Louisiana Register*

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1191.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 15:548 (July 1989), amended LR 20:1388 (December 1994), LR 27:2253 (December 2001).

**§507. Course Requirements**

A. Life, Health, and Accident

1. All applicants for life, health, and accident licenses as an agent are hereby required to complete a course of instruction with a minimum of 16 hours of supervised instruction in a structured setting. If applying for a combination life, health and accident license all applicants must complete the full 32 hours of life, health and accident instruction.

2. The curricula for the life instruction shall include the following:

- a. insurance regulation;
- b. general insurance;
- c. life insurance basics;
- d. life insurance policies;
- e. life insurance policy provisions, options and riders;
- f. annuities;
- g. federal tax considerations for life insurance and annuities;
- h. qualified plans.

3. The curricula for the Health and Accident instruction shall include the following:

- a. insurance regulation;
- b. general insurance;
- c. health insurance basics;
- d. individual health insurance policy provisions;
- e. disability income and related insurance;
- f. medical expense plans;
- g. group health insurance;
- h. dental insurance;
- i. insurance for senior citizens and special needs individuals;
- j. federal tax considerations.

#### B. Property and Casualty

1. All applicants for property and casualty licenses as agent, broker, or solicitor are hereby required to complete a course of instruction with a minimum of 32 hours of supervised instruction in a structured setting.

2. The curricula shall include the following:

- a. insurance regulation;
- b. general insurance
- c. property and casualty insurance basics;
- d. dwelling policy (Louisiana specific);
- e. homeowners ('91) policy;
- f. auto insurance;
- g. commercial package policy;
- h. business owners ('89) policy;
- i. workers' compensation insurance;
- j. other coverage and options.

C. Satisfactory Completion of the Instructional Program. Upon completion of the prescribed course of instruction, the applicant shall be tested by the provider of the program.

D. Exemptions. The requirement for the completion of the instructional course does not apply to any applicant who is exempt from the requirement of an examination under R.S. 22:1167 or any applicant seeking authorization to write industrial fire insurance business only.

E. Concurrent Instructional Courses. When concurrent instructional courses for both life, accident, and health and property and casualty are conducted, the repetition of ethical practices and other topics which are redundant shall be waived. However, this does not reduce the minimum

required hours of instructional training set forth by the statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1191.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 15:548 (July 1989), amended LR 20:1388 (December 1994), LR 27:2254 (December 2001).

#### §509. Provider Requirements

A. - A.2. ...

3. Completion of the Department's pre-licensing provider application, for the initial certification of director/supervising instructor to be used in accordance with the requirements and qualifications of instructors set forth herein.

A.4. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1191.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 15:548 (July 1989), amended LR 20:1388 (December 1994), LR 27:2254 (December 2001).

#### §511. Instructor Qualifications

A. - A.4. ...

5. All instructors must possess the necessary qualifications to enable them to teach the program and to present the instructional material. Special consideration may be granted by the Commissioner or the Council with Commissioner's approval, where it is felt that the specific background of the instructor warrants such consideration. The qualifications for instructors shall include, as a minimum, the following:

a. for supervising instructors, five years of insurance and/or educational experience satisfactory to the commissioner and council;

5.b. ...

c. The Commissioner shall have the authority to waive this requirement after a public hearing to determine the applicant's qualifications has been held and findings of such hearing warrant such a waiver.

6. For all instructors, except those specified in §511.A.2, the supervising instructor shall obtain and submit a Pre-Licensing Instructor Application form for each instructor who will participate in the instructional course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1191.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 15:548 (July 1989), amended LR 20:1388 (December 1994), LR 27:2254 (December 2001).

#### §517. Course Completion

A. - B. ...

C. The provider must maintain computer records of course completion in a format compatible with Insurance Department specifications to facilitate the electronic reporting and transfer of attendance information from the provider to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1191.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 15:548 (July 1989), amended LR 20:1388 (December 1994), LR 27:2254 (December 2001).



**§527. Appendix 1**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1191.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 15:548 (July 1989), amended LR 20:1388 (December 1994), LR 27:2255 (December 2001).

**§529. Appendix 2**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1191.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 15:548 (July 1989), amended LR 20:1388 (December 1994), LR 27:2255 (December 2001).

J. Robert Wooley  
Acting Commissioner

0112#068

**RULE**

**Department of Public Safety and Corrections  
Gaming Control Board**

Imposition of Sanctions;  
Enforcement Actions of the Board  
(LAC 42:VII.2325, 42:IX.4103, 42:XIII.2325)

The Louisiana Gaming Control Board has amended VII.2325, IX.4103 and XIII.2325 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, RS. 49:950 et seq.

**Title 42**

**LOUISIANA GAMING**

**Part VII. Pari-Mutual Live Racing Facility Slot  
Maching Gaming**

**Chapter 23. Compliance, Inspections and  
Investigations**

**§2325. Imposition of Sanctions**

A. The division may assess a civil penalty as provided for in the penalty schedule. The penalty schedule lists a base fine and proscriptive period for each violation committed by the licensee or permittee. The proscriptive period is the amount of time determined by the division in which a prior violation is still considered active for purposes of consideration in assessment of penalties. A prior violation is a past violation's proscriptive period. The date of a prior violation shall be considered to be when the licensee, or permittee receives the significant action report or violation/inspection report. If one or more violations exist within the proscriptive period, the base fine shall be multiplied by a factor based on the total number of violations within the proscriptive period. The violation of any rule may result in the assessment of a civil penalty, suspension, revocation, or other administrative action. If the calculated penalty exceeds the statutory maximum of \$100,000, the matter shall be forwarded to the Board for further administrative action. In such case, the board shall determine the appropriate penalty to be assessed. Assisting in the violation of rules, laws, or procedures as provided in §2931 may result in a civil penalty in the same amount as provided in the penalty schedule for the respective violation.

B. - D. ...

E. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)
*	*	*	*
2954	Tournaments	5,000	12
*	*	*	*

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:1321 (June 2000), LR 27:2255 (December 2001).

**Part IX. Landbased Casino Gaming**

**Chapter 41. Enforcement Actions**

**§4103. Enforcement Actions of the Board**

A. - A.4.e. ...

B. The Division may assess a civil penalty as provided in the penalty schedule. The penalty schedule lists a base fine and proscriptive period for each violation committed by the Casino Operator or Casino Manager. The proscriptive period is the amount of time, determined by the division, in which a prior violation is still considered active for purposes of consideration in assessment of penalties. A prior violation is a past violation of the same type which falls within the current violation's proscriptive period. The date of a prior violation shall be considered to be when the licensee, permittee or casino operator receives the significant action report or violation/inspection report. If one or more violations exist within the proscriptive period, the base fine shall be multiplied by a factor based on the total number of violations within the proscriptive period. The violation of any rule may result in the assessment of a civil penalty, suspension, revocation, or other administrative action. If the calculated penalty exceeds the statutory maximum of \$1,000,000, the matter shall be forwarded to the Board for further administrative action. In such case, the Board shall determine the appropriate penalty to be assessed. Assisting in the violation of rules, laws, or procedures as provided in Section 2927 of these Regulations may result in a civil penalty in the same amount as provided in the penalty schedule for the respective violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Correction, Gaming Control Board, LR 26:1900 (October 1999), amended LR 26:2306 (October 2000), LR 27:2255 (December 2001).

**Part. XIII. Riverboat Gaming**

**Chapter 23. Compliance, Inspections and  
Investigations**

**§2325. Imposition of Sanctions**

A. The division may assess a civil penalty as provided for in the penalty schedule. The penalty schedule lists a base fine and proscriptive period for each violation committed by the licensee or permittee. The proscriptive period is the amount of time determined by the division in which a prior violation is still considered active for purposes of consideration in assessment of penalties. A prior violation is a past violation of the same type which falls within the current violation's proscriptive period. The date of a prior violation shall be considered to be when the licensee or permittee receives the significant actor report or

violation/inspection report. If one or more violations exist within the proscriptive period, the base fine shall be multiplied by a factor based on the total number of violations within the proscriptive period. The violation of any rule may result in the assessment of a civil penalty, suspension, revocation, or other administrative action. If the calculated penalty exceeds the statutory maximum of \$100,000, the matter shall be forwarded to the board for further administrative action. In such case, the board shall determine the appropriate penalty to be assessed. Assisting in the violation of rules, laws, or procedures as provided in §2931 may result in a civil penalty in the same amount as provided in the penalty schedule for the respective violation.

B.-D. ...

E. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)
***			
2954	Tournaments	5,000	12
***			

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 26.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:705 (July 1995), amended by the Gaming Control Board, LR 26:1316 (June 2000), LR 27:2255 (December 2001).

Hillary J. Crain  
Chairman

0112#015

**RULE**

**Department of Public Safety and Corrections  
Liquefied Petroleum Gas Commission**

New Dealer Requirements; Transport/Delivery Truck  
Inspection; Supplement to NFPA  
(LAC 55:IX.107, 166, and 181)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases, the commission has amended existing rules and adopted new rules. The effective date of these changes and adoptions is January 1, 2002.

**Title 55**

**PUBLIC SAFETY**

**Part IX. Liquefied Petroleum Gas**

**Chapter 1. General Requirements**

**Subchapter A. New Dealers**

**' 107. Requirements**

A.1. - 5.c. ...

6. Applicant must have paid a permit fee in the amount of \$75, except for Class VII-E, which shall be \$100, and R-1, R-2 registrations, which shall be \$37.50 and Class VI-X shall be in the amount of \$75 for the first location, plus \$50 for each 2-11 locations, plus \$25 for each 12-infinity locations. For succeeding years the permit fee shall be .1500

of 1 percent of annual gross sales of liquefied petroleum gas with a minimum of \$75, except in the case of Class VI-X which the minimum permit fee shall be \$75 for the first location, plus \$50 for each 2-11 locations, plus \$25 for each 12-infinity locations; or .1500 of 1 percent of annual gross sales of liquefied petroleum gases of all locations whichever is greater. For classes not selling liquefied petroleum gases in succeeding years the permit fee shall be \$75, except registrations shall be \$37.50 per year.

6.a. - 13. ...

14. All Class I, Class VI, Class VI-X, and Class VIII permit holders are required to accept, for proper disposal or requalification, all 4 lb. through 40 lb. liquefied petroleum gas cylinders from consumers, when offered, which are not suitable for continued service in their present condition. Class I permit holders, who supply liquefied petroleum gas to Class VI, Class VI-X and Class VIII permit holders are required to accept and properly dispose of or requalify, all 4 lb. through 40 lb. liquefied petroleum gas capacity cylinders when offered by their Class VI, Class VI-X, or Class VIII permit holders for disposal or requalification. Those cylinders offered for disposal or requalification become the property of the permit holders accepting the cylinder. It is the responsibility of the Class I permit holders to properly dispose of the cylinders which are not or can not be requalified.

15. All classes of permit holders who fill cylinders on their premises for the public shall have a "Reject and Do Not Fill" poster or sign approved by the Liquefied Petroleum Gas Commission at each filling location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:2256 (December 2001).

**Subchapter F. Tank Trucks, Semi-Trailers and Trailers**

§166. Transport/Delivery Truck Registration Decals and Inspections

A. - C.2.a. ...

b. a qualified agency acceptable to the commission with acceptable documentation, that a safety inspection has been performed by that qualified agency.

3. Safety inspections performed by a commission inspector within the State of Louisiana shall be free of charge.

4. Safety inspections performed by a commission inspector outside of the State of Louisiana shall be subject to travel reimbursement to the commission from the permit holder(s) for which the travel was performed in accordance with Policy and Procedure Memorandum 49 guidelines. This travel must be requested by the out of state permit holder and out of state travel will be solely at the discretion of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas

Commission, LR 24:467 (March 1998), LR 25:2412 (December 1999), LR 27:2256 (December 2001).

**Subchapter I. Adoption of Standards**

**§181. National Fire Protection Association Pamphlet Numbers 54 and 58**

A. - E.10. ...

11. Adding as a supplement to NFPA 58-1995C in Louisiana all DOT cylinders from 4 lbs. through 40 lbs. propane capacity fabricated after August 1, 1999 shall be equipped with a listed overfilling prevention device (OPD) and a fixed maximum liquid level gauge. All DOT cylinders from 4 lbs. through 40 lbs. propane capacity, used in Louisiana, shall be retrofitted with a listed overfilling prevention device (OPD), if they are requalified after August 1, 1999 or by September 30, 2010, whichever comes first. No DOT cylinder 4 lbs. though 40 lbs. shall be filled in Louisiana after September 30, 2010 unless equipped with an overfilling prevention device (OPD). Lift truck cylinders and cylinders marked, identified and used for welding and cutting gases are exempt from these provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1404 (December 1994), amended LR 24:2412 (December 1999), LR 27:2257 (December 2001).

Charles M. Fuller  
Director

0112#018

**RULE**

**Department of Public Safety and Corrections  
Office of the State Fire Marshal**

NFPA Codes (LAC 55:V.103)

In accordance with the provisions of R.S.49:950, et seq. and R.S. 40:1563.F, relative to the authority of the State Fire Marshal to promulgate and enforce Rules, the Office of the State Fire Marshal amends the following Rule.

**Title 55**

**PUBLIC SAFETY**

**Part V. Fire Protection**

**Chapter 1. Preliminary Provisions**

**' 103. General Provisions**

A. It shall be the policy of the state fire marshal that in all instances or specifications provided in the statutes or in the codes referenced by the statutes, or by any specific references in administrative rulings by the state fire marshal, that the National Fire Codes published by the National Fire Protection Association and the Standard Building Code shall be used as the references and standards for determinations by the state fire marshal as follows.

NFPA 1	1997 Edition	Fire Prevention Code
NFPA 10	1998 Edition	Standard for Portable Fire Extinguishers
NFPA 11	1998 Edition	Standard for Low-Expansion Foam
NFPA 12	2000 Edition	Standard on Carbon Dioxide Extinguishing Systems
NFPA 12A	1997 Edition	Standard on Halon 1301 Fire Extinguishing Systems

NFPA 13	1999 Edition	Standard for the Installation of Sprinkler Systems
NFPA 13D	1999 Edition	Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes
NFPA 13R	1999 Edition	Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height
NFPA 14	2000 Edition	Standard for the Installation of Standpipe and Hose Systems
NFPA 15	1996 Edition	Standard for Water Spray Fixed Systems for Fire Protection
NFPA 16	1999 Edition	Standard for the Installation of Deluge Foam-Water Sprinkler Systems
NFPA 17	1998 Edition	Standard for Dry Chemical Extinguishing Systems
NFPA 17A	1998 Edition	Standard for Wet Chemical Extinguishing Systems
NFPA 18	1995 Edition	Standard on Wetting Agents
NFPA 20	1999 Edition	Standard for the Installation of Centrifugal Pumps
NFPA 24	1995 Edition	Standard for the Installation of Private Fire Service Mains and Their Appurtenances
NFPA 25	1998 Edition	Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems
NFPA 30	1996 Edition	Flammable and Combustible Liquids Code
NFPA 30A	1996 Edition	Automotive and Marine Service Station Code
NFPA 30B	1998 Edition	Code for the Manufacture and Storage of Aerosol Products
NFPA 31	1997 Edition	Standard for the Installation of Oil-Burning Equipment
NFPA 32	1996 Edition	Standard for Dry Cleaning Plants
NFPA 33	1995 Edition	Standard for Spray Application Using Flammable or Combustible Materials
NFPA 34	1995 Edition	Standard for Dipping and Coating Processed Using Flammable or Combustible Liquids
NFPA 37	1998 Edition	Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines
NFPA 42	1997 Edition	Code for the Storage of Pyroxylin Plastic
NFPA 45	1996 Edition	Standard on Fire Protection for Laboratories Using Chemicals
NFPA 49	1994 Edition	Hazardous Chemicals Data
NFPA 50	1996 Edition	Standard for Bulk Oxygen Systems at Consumer Sites
NFPA 50A	1999 Edition	Standard for Gaseous Hydrogen Systems at Consumer Sites
NFPA 50B	1998 Edition	Standard for Liquefied Hydrogen Systems at Consumer Sites
NFPA 51	1997 Edition	Standards for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes
NFPA 52	1998 Edition	Standard for Compressed Natural Gas (CNG) Vehicular Fuel Systems
NFPA 53	1999 Edition	Guide on Fire Hazards in Oxygen Enriched Atmospheres
NFPA 54	1999 Edition	National Fuel Gas Code
NFPA 55	1998 Edition	Standard for the Storage, Use, and Handling of Compressed and Liquefied Gases in Portable Cylinders
NFPA 57	1999 Edition	Standard for Liquefied Natural Gas (LNG) Vehicular Fuel Systems
NFPA 58	1998 Edition	Standard for the Storage and Handling of Liquefied Petroleum Gases

NFPA 59A	1996 Edition	Standard for the production, Storage, and Handling of Liquefied Natural Gas (LNG)
NFPA 61	1999 Edition	Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)
NFPA 68	1998 Edition	Guide for Venting of Deflagrations
NFPA 69	1997 Edition	Standard on Explosion Prevention Systems
NFPA 70	1999 Edition	National Electrical Code
NFPA 72	1999 Edition	National Fire Alarm Code
NFPA 75	1999 Edition	Standard for Protection of Electronic Computer/Data Processing Equipment
NFPA 80	1999 Edition	Standard for Fire Doors and Fire Windows
NFPA 82	1999 Edition	Standard on Incinerators and Waste and Linen Handling Systems and Equipment
NFPA 88A	1998 Edition	Standard for Parking Structures
NFPA 88B	1999 Edition	Standard for Repair Garages
NFPA 90A	1999 Edition	Standard for the Installation of Air Conditioning and Ventilating Systems
NFPA 90B	1999 Edition	Standard for the Installation of Warm Air Heating and Air Conditioning Systems
NFPA 92A	1996 Edition	Standard for Installation of Air Conditioning and Ventilation Systems
NFPA 92B	1995 Edition	Guide for Smoke Management in Malls, Atria, and Large Areas
NFPA 96	1998 Edition	Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations
NFPA 97	2000 Edition	Standard Glossary of Terms Relating to Chimneys, Vents, and Heat Producing Appliances
NFPA 99	1999 Edition	Standard for Health Care Facilities
NFPA 99B	1999 Edition	Standard for Hypobaric Facilities
NFPA 101	2000 Edition	Code for Safety to Life from Fire in Buildings and Structures
NFPA 101A	1998 Edition	Guide on Alternative Approaches to Life Safety
NFPA 102	1995 Edition	Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures
NFPA 105	1999 Edition	Recommended Practice for the Installation of Smoke Control Door Assemblies
NFPA 110	1999 Edition	Standard for Emergency and Standby Power Systems
NFPA 111	1996 Edition	Standard on Stored Electrical Energy Emergency and Standby Power Systems
NFPA 150	1995 Edition	Standard on Fire Safety in Racetrack Stables
NFPA 170	1999 Edition	Standard for Fire Safety Symbols
NFPA 204	1998 Edition	Guide for Smoke and Heat Venting
NFPA 211	2000 Edition	Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances
NFPA 220	1999 Edition	Standard on Types of Building Construction
NFPA 221	1997 Edition	Standard for Fire Walls and Fire Barrier Walls
NFPA 230	1999 Edition	Standard for General Storage
NFPA 231D	1994 Edition	Standard for Storage of Rubber Tires
NFPA 232	1995 Edition	Standard for the Protection of Records
NFPA 303	1995 Edition	Fire Protection Standard for Marinas and Boatyards
NFPA 307	1995 Edition	Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves
NFPA 407	1996 Edition	Standard for Aircraft Fuel Servicing
NFPA 409	1995 Edition	Standard on Aircraft Hangars

NFPA 415	1997 Edition	Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways
NFPA 418	1995 Edition	Standard for Heliports
NFPA 430	2000 Edition	Code for the Storage of Liquid and Solid Oxidizers
NFPA 432	1997 Edition	Code for the Storage of Organic Peroxide Formulations
NFPA 434	1998 Edition	Code for the Storage of Pesticides
NFPA 490	1998 Edition	Code for the Storage of Ammonium Nitrate
NFPA 491M	1991 Edition	Manual of Hazardous Chemical Reactions
NFPA 495	1996 Edition	Explosive Materials Code
NFPA 496	1998 Edition	Standard for Purged and Pressurized Enclosures for Electrical Equipment
NFPA 513	1998 Edition	Standard for Motor Freight Terminals
NFPA 701	1999 Edition	Standard Methods of Fire Tests for Flame-Resistant Textiles and Films
NFPA 703	1995 Edition	Standard for Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Materials
NFPA 704	1996 Edition	Standard System for the Identification of the Hazards of Materials for Emergency Response
NFPA 705	1997 Edition	Recommended Practice for a Field Flame Test for Textiles and Films
NFPA 750	1996 Edition	Standard on Water Mist Fire Protection Systems
NFPA 801	1998 Edition	Standard for Facilities Handling Radioactive Materials
NFPA 901	1995 Edition	Standard Classifications for Incident Reporting and Fire Protection Data
NFPA 902	1997 Edition	Fire Reporting Field Incident Guide
NFPA 903	1996 Edition	Fire Reporting Property Survey
NFPA 904	1996 Edition	Incident Follow-up Report Guide
NFPA 906	1998 Edition	Guide for Fire Incident Field Notes
NFPA 1123	1995 Edition	Code for Fireworks Display
NFPA 1124	1995 Edition	Code for the Manufacture, Transportation, and Storage of Fireworks
NFPA 1126	1996 Edition	Standard for the Use of Pyrotechnics before a Proximate Audience
NFPA 1221	1999 Edition	Standard for the Installation, Maintenance, and Use of Public Fire Communication Systems
NFPA 1402	1997 Edition	Guide to Building Fire Service Training Centers
NFPA 1403	1997 Edition	Standard on Live Fire Training Evolutions
NFPA 2001	2000 Edition	Standard on Clean Agent Fire Extinguishing Systems
NFPA 8501	1997 Edition	Standard for Single Burner Boiler Operation
NFPA 8502	1999 Edition	Standard for the Prevention of Furnace Explosions/Implosions in Multiple Burner Boilers
NFPA 8506	1998 Edition	Standard on Heat Recovery Steam Generator Systems

B. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after June 30, 2001, shall be made utilizing new construction requirements set forth in the 2000 edition of the *Life Safety Code* of the National Fire Protection Association and Section 412-Special Provisions for High-Rise Building published by the 1994 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc. All references to performance based criteria in the 2000 Edition of the *Life Safety Code* shall only be considered by the Office of State Fire Marshal after an appeal of a decision

has been timely made. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after December 31, 2001, shall be made utilizing new construction requirements set forth in the 2000 edition of the *Life Safety Code* of the National Fire Protection Association and Section 412-Special Provisions for High-Rise Building published by the 1997 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

C. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after May 31, 1998 will be made utilizing new construction requirements set forth in the 1997 edition of the *Life Safety Code* of the National Fire Protection Association and Section 412-Special Provisions for High-Rise Building published by the 1994 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

D. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal on or after January 5, 1995, will be made utilizing new construction requirements set forth in the 1994 edition of the *Life Safety Code* of the National Fire protection Association and Section 506-Special Provisions for High-Rise Buildings published by the 1991 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

E. All inspections of building constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after May 31, 1992, will be made utilizing new construction requirements set forth in the 1991 edition of the *Life Safety Code* of the National Fire Protection Association and Section 506-Special Provisions for High-Rise Buildings published by the 1998 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

F. With regard to buildings constructed or remodeled between February 19, 1989, and May 31, 1992, or whose construction was timely completed pursuant to plans submitted to the Office of State Fire Marshal prior to May 31, 1992, inspections will be made utilizing the new construction requirements set forth in the 1998 edition of the *Life Safety Code* of the National Fire Protection Association and Section 506-Special Provisions for High-Rise Buildings published by the *Standard Building Code* of the Southern Building Code Congress International, Inc. (1985 edition).

G. All inspections of buildings constructed or remodeled between September 1, 1986, and February 19, 1989, will be made utilizing the requirements set forth in the 1985 edition of the *Life Safety Code* of the National Fire Protection Association and Section 518 Special Provisions for High Rise of Chapter 4 of the 1985 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

H. All inspections of building constructed or remodeled between September 1, 1981, and September 1, 1986 will be made utilizing the requirements set forth in the 1981 edition of the *Life Safety Code* of the National Fire Protection Association and Section 506 Special Provisions for high rise of the *Standard Building Code* (1979 edition) of the Southern Building Code Congress International, Inc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 F.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:145 (February 1975),

amended LR 5:468 (December 1979), LR 6:71 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981). LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections. Office of the State Fire Marshal, LR 15:96 (February 1989), LR 17:1114 (November 1991), LR 23:1688 (December 1997), LR 27:2257 (December 2001).

Jerry Jones  
Undersecretary

0112#099

**RULE**

**Department of Public Safety and Corrections  
Office of State Police**

Hazardous Materials CRight to Know  
(LAC 33:V.10117 and 10121)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 30:2361 et seq., hereby amends its rules regulating chemical inventory filing fees and those entities subject to civil penalties all in accordance with statutory changes in these areas.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part V. Hazardous Wastes and Hazardous Materials**

**Subpart 2. Department of Public Safety and  
Corrections CHazardous Materials**

**Chapter 101. Hazardous Material Information  
Development, Preparedness and Response  
Act**

**§10117. Failure to Report: Penalties**

A. - D.1. ...

2. R.S. 30:2373.D(2) provides that for any person, owner, operator, or facility that violates R.S. 30:2373.D the department may levy a civil penalty not to exceed \$25,000 per violation.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:762 (December 1987), repromulgated LR 14:804 (November 1988), amended LR 16:975 (November 1990), LR 27:864 (June 2001), LR 27:2259 (December 2001).

**§10121. Fees**

A. ...

B. 1. Until June 30, 2003, the fees for facilities not meeting the definition of "small business" in R.S. 30:2363 shall be assessed as follows:

Number of Hazardous Materials Present at Facility	Amount of Fees Charges
01 to 25	\$ 65
26 to 75	\$ 85
76 to 100	\$170
Over 100	\$255

B.2. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:762 (December 1987), repromulgated LR 14:804 (November 1988), amended LR 16:975 (November 1990), LR 27:864 (June 2001), LR 27:2259 (December 2001).

Jerry Jones  
Undersecretary

0112#016

## RULE

### Department of Public Safety and Corrections Office of State Police

#### Motor Vehicle Inspection (LAC 55:III.Chapter 8)

The Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, in accordance with R.S. 49:950 et seq. and R.S. 32:1301 et seq. hereby amends its rules regulating vehicle inspections by now requiring the performance of an on-board diagnostic systems test as well as providing for immediate suspension of any inspection station which fails to perform such test.

#### Title 55

#### PUBLIC SAFETY

#### Part III. Motor Vehicles

#### Chapter 8. Motor Vehicle Inspection

#### Subchapter B. Safety Inspections

#### §805 Requirements, Duties, Responsibilities

A. - E.1.i. ...

j. on board diagnostic systems test equipment and evaporative system test equipment which includes gas cap pressure test equipment as per the United States Environmental Protection Agency (US EPA) specifications. Stations must have approved equipment readily accessible and in good working order. This equipment must be in or near the inspection area. The provisions of LAC 55:III.805.E.1.j shall only apply to inspection stations located in the non-attainment area;

E.1.k. - I. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304 - 1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2434 (December 1999), amended LR 27:2260 (December 2001).

#### §807. Operation as an Official Motor Vehicle Inspection Station

A. - E.8. ...

9. Until electronic submittal of data is implemented, the Louisiana Vehicle Inspection/Maintenance Parameter Form must be properly filled out by stations in the five parish non-attainment area for every vehicle which requires an emissions test. Parameter Forms should be mailed directly to the Department of Public Safety, Safety Enforcement, 527 Florida Boulevard, Room 303, Denham Springs, LA 70726. In the non-attainment area there may be separate and additional reports required as mandated by the Department of Environmental Quality. Stations within this area are to properly complete all required reports and they must be postmarked no later than Saturday, 12 noon each week.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304 - 1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2434 (December 1999), amended LR 27:2260 (December 2001).

#### Subchapter C. Vehicle Emission Inspection and Maintenance Program

#### §819. Anti-Tampering and Inspection and Maintenance Parameters

A. ...

B. Effective January 1, 2000, and in addition to the anti-tampering parameter checks listed in subsection A of this section, a vehicle inspection and maintenance program consisting of a gas cap pressure test is required on all subject vehicles, 1980 and newer model year, gasoline-fueled passenger cars and gasoline-fueled trucks (10,000 pounds gvwr or less) registered within the five parish non-attainment area. The non-attainment area is comprised of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge parishes.

C. Effective January 1, 2002, and in addition to the requirements outlined in Subsections A and B of this section, the performance of Onboard Diagnostic (OBD II) system checks will be required on all 1996 and newer model year gasoline-fueled passenger cars and gasoline-fueled trucks (10,000 pound gvwr or less) registered in the five parish non-attainment area. These mandatory OBD II checks are to be performed in accordance with the federal Amendments to Vehicle Inspection Maintenance Program Requirements Incorporating the Onboard Diagnostic Check, Final Rule at 40 CFR Parts 51 and 85 as published in *Federal Register*, Thursday, April 5, 2001 (Volume 66, pages 18156 - 18179).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304 - 1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2434 (December 1999), amended LR 27:2260 (December 2001).

#### Subchapter E. Administrative and Audit Procedures

#### §833. Investigations; Administrative Actions; Sanctions

A. - B. ...

C. The Department may immediately and temporarily suspend the license of a Motor Vehicle Inspection station prior to providing an administrative hearing when it is determined that the station has violated any of the provisions of LAC 55:III.819. In the event of such an immediate and temporary suspension of its license, the station is entitled to an administrative hearing to be held within 14 days of the initial date of suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304 - 1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2434 (December 1999), amended LR 27:2260 (December 2001).

Jerry Jones  
Undersecretary

0112#017

**RULE**

**Department of Revenue  
Policy Services Division**

Application of the Louisiana Individual  
Income Tax to Native Americans  
(LAC 61:I.1303)

Under the authority of R.S. 47:293(6)(a)(iii) and R.S. 47:295 and in accordance with the provisions of the Administrative Procedure Act, R.S. 47:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61:I.1303 relative to the taxation of the income of Native Americans.

Louisiana Revised Statute 47:293(6)(a)(iii) excludes from "tax table income" income which is "exempt from taxation under the laws of Louisiana or which Louisiana is prohibited from taxing by the constitution or laws of the United States." This Rule clarifies the application of the Louisiana individual income tax to Native Americans.

**Title 61**

**REVENUE AND TAXATION**

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

**Chapter 13. Income: Personal**

**§ 1303. Application of the Louisiana Individual Income  
Tax to Native Americans**

A. The income of an enrolled member of a federally recognized Indian tribe residing on that tribe's reservation that is derived from sources on that reservation shall be exempted from Louisiana individual income tax. The determination of the sources of gross allocable income shall be consistent with R.S. 47:243.

B. The income of an enrolled member of a federally recognized Indian tribe residing on that tribe's reservation that is derived from sources outside of that reservation is taxable for Louisiana individual income tax purposes. This includes income derived from sources outside of the state.

C. The income of an enrolled member of a federally recognized Indian tribe residing in Louisiana off of that tribe's reservation is taxable for Louisiana individual income tax purposes regardless of source.

D. If an enrolled member of a federally recognized Indian tribe resides on that tribe's reservation for a portion of the year and resides off of that tribe's reservation for a portion of the year such enrolled member shall be taxed based upon where such enrolled member resided when the income in question was earned.

E Compensation from military sources paid to an enrolled member of a federally recognized Indian tribe shall be exempted from Louisiana individual income tax if:

1. such enrolled member was residing on that tribe's reservation at the time of entering the armed forces of the United States; and

2. such enrolled member has not elected to abandon his or her residence on that tribe's reservation.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:293(6)(a)(iii) and R.S. 47:295.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 27:2261 (December 2001).

Cynthia Bridges  
Secretary

0112#047

**RULE**

**Department of Revenue  
Policy Services Division**

Manufactured and Mobile Home Settlement  
Fund Administration (LAC 61:I.4314)

Under the authority of Act 1212 of the 2001 Regular Legislative Session 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 enacted LAC 61:I.4313 to establish procedures for the administration of the Manufactured and Mobile Home Settlement Fund.

This rule is necessary to allow the Department of Revenue to carry out the requirements of Act 1212 of the 2001 Regular Legislative Session, which was enacted to resolve certain suits against the state related to the state sales and use taxes assessed on the purchase of certain manufactured and mobile homes. This Act requires the secretary to promulgate rules and regulations to process claims against the state regarding state sales tax paid on the purchase of manufactured and mobile homes. This rule supplements the Declarations of Emergency regarding the Manufactured and Mobile Home Settlement Fund that were effective September 1, 2001, September 10, 2001, and October 20, 2001.

**Title 61**

**REVENUE AND TAXATION**

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

**Chapter 43. Sales and Use Tax**

**§4313. Administration of Claims Against the  
Manufactured and Mobile Home Settlement  
Fund as Required by Act 1212 of the 2001  
Regular Legislative Session**

A. Payment of Avants Judgment

1. The Secretary of Revenue will direct the Office of Motor Vehicles to issue a payment for the judgment rendered on February 5, 2001, in the matter of "Shirley M. Avants and Jim W. Miley v. John Neely Kennedy, Secretary, Department of Revenue and Taxation, State of Louisiana; and Elmer Litchfield, Sheriff of East Baton Rouge Parish," No. 434,575 (19th Judicial District Court Mar. 12, 1997) in the amount of \$5,167,194 plus interest from the date of the judgment. This payment will be made out of the state funds currently held in escrow by the Office of Motor Vehicles pursuant to the October 22, 1999 order issued in the Avants lawsuit.

2. Those individuals specifically listed as plaintiffs in the Shirley M. Avants lawsuit referenced in §4313.A.1 are not eligible to file a claim against the state regarding the Manufactured and Mobile Homes Settlement Fund described in §4313.B.

B. Source of Funds in the Manufactured and Mobile Homes Settlement Fund. After the payment described in §4313.A is made and an order is issued releasing the remainder of the state funds from escrow, the State Treasurer will transfer all remaining state tax monies held in escrow to the Manufactured and Mobile Homes Settlement Fund, hereinafter referred to as "the Fund."

C. Administration of the Fund with Regard to the Stevens, Rossi, and Miley Suits

1. The Department of Revenue will obtain a list of all persons who were plaintiffs on or before July 1, 2001, in the following three suits:

a. Nancy C. Stevens and Edward Istre, Jr. v. Brett Crawford, Secretary, Department of Revenue, State of Louisiana, No. 466,122 (19th Judicial District Court Nov. 2, 1999);

b. Darla M. Rossi, et al v. Cynthia Bridges, Secretary, Department of Revenue, State of Louisiana, No. 478,526 (19th Judicial District Court Nov. 29, 2000); and

c. Jim W. Miley, Individually, and on behalf of all others similarly situated v. John Neely Kennedy, Secretary, Department of Revenue and Taxation, State of Louisiana, No. 4695 (La. Board of Tax Appeals Apr. 15, 1997).

2. Any plaintiff referred to in §4313.C.1 must provide his legal representative with documentation that identifies the transaction upon which his claim is based. Examples of such documentation include the VIN number of the manufactured or mobile home purchased by the plaintiff, a copy of the plaintiff's registration issued by the Office of Motor Vehicles upon the original purchase of the manufactured or mobile home, or a copy of the bill of sale. The plaintiff's representative must present this documentation to the Department of Revenue by December 31, 2001.

3. The information provided by the plaintiffs in §4313.C.2 will be used to locate the sales transactions in the Office of Motor Vehicle's records to determine the amount of state sales or use tax actually paid on those transactions.

4. After the state tax monies held in escrow are transferred to the Fund, the Secretary of the Department of Revenue will authorize payment from the Fund for the state sales or use tax paid to those plaintiffs described in §4313.C.1.a-c, but only in instances where the amount of state sales or use tax paid has been verified.

5. If it cannot be determined that a plaintiff described in §4313.C.1.a-c has paid state sales or use tax on the purchase of a manufactured or mobile home, or if the amount cannot be verified, the amount claimed by that plaintiff will be denied.

6. Plaintiffs in the suits listed in §4313.C.1.a-c are not eligible to file a claim against the state regarding the Manufactured and Mobile Home Settlement Fund.

D. Administration of the Manufactured and Mobile Home Fund with Respect to All Others

1. The Secretary of the Department of Revenue will obtain from the Department of Public Safety, Office of Motor Vehicles, a list of all persons who purchased a manufactured or mobile home after December 31, 1997, and before July 1, 2001.

2. The Department of Revenue will mail a notice to each person described in §4313.D.1. The notice will inform persons who are not a party to the lawsuits referenced in §4313.A.1 or §4313.C.1.a-c of their right to file a claim against the state for state sales or use tax paid on manufactured and mobile home purchases and will include a Manufactured and Mobile Homes Settlement Claim Form that must be filed with the claim against the state. The Manufactured and Mobile Homes Settlement Claim Forms will also be available at the Louisiana Board of Tax Appeals, at any office of the Department of Revenue, and on the Department of Revenue's website at [www.rev.state.la.us](http://www.rev.state.la.us).

3. The Department of Revenue will collect the Manufactured and Mobile Homes Settlement Claim Forms on behalf of the Board of Tax Appeals. Taxpayers who purchased a manufactured or mobile home after December 31, 1997, and before July 1, 2001, must return the completed claim form to the Department of Revenue on or before December 31, 2001. The forms may be delivered to any Department of Revenue office or mailed to the Louisiana Department of Revenue, Manufactured and Mobile Homes Settlement Claims, P.O. Box 15409, Baton Rouge, LA 70895-5409. Forms that are postmarked on or before December 31, 2001, will be deemed received by December 31, 2001.

4. Claimants must include documentation that identifies the transaction upon which their claim is based with the Manufactured and Mobile Homes Settlement Claim Form. Examples of such documentation include the VIN number of the manufactured or mobile home purchased by the plaintiff, a copy of the plaintiff's registration issued by the Office of Motor Vehicles upon the original purchase of the manufactured or mobile home, or a copy of the bill of sale.

5. The information provided by the claimants in §4313.D.4 will be used to locate the sales transactions in the Office of Motor Vehicle's records to determine the amount of state sales or use tax actually paid on those transactions.

6. If a claim is filed with incomplete documentation to identify the transaction, the secretary will notify the claimant that the claim is unacceptable. The secretary may allow additional time for the claimant to provide adequate documentation. However, all documentation must be provided no later than February 28, 2002, or the claim will be denied.

7. After the December 31, 2001 deadline to file a Manufactured and Mobile Homes Settlement Claim Form has passed, the Department of Revenue will review the forms in conjunction with the Office of Motor Vehicle's records to determine the amount of state sales or use tax actually paid by each claimant. Thereafter, the department will forward the claim forms along with its findings to the Board of Tax Appeals for a ruling.

8. After the Board of Tax Appeals rules on all claims, the Secretary of the Department of Revenue will authorize payment from the Fund of all claims approved by the Board of Tax Appeals in accordance with Paragraphs B and C of Section 4 of Act 1212 of the 2001 Regular Legislative Session.



AUTHORITY NOTE: Promulgated in Accordance with Acts 2001, No. 1212 and R.S. 47:301.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 27:2261 (December 2001).

Cynthia Bridges  
Secretary

0112#052

## **RULE**

### **Department of Social Services Office of Community Services**

#### **Percentage of Title IV-E Foster Children in Care over 24 Months (LAC 67:V.3510)**

The Department of Social Services, Office of Community Services, has adopted a Rule entitled a "Percentage of Title IV-E Foster Children in Care over 24 Months" for implementation of the provisions required by 42 U.S.C. Sec. 671(A)(14) of the Social Security Act. The Emergency Rule was published in the *Louisiana Register*, Vol. 27 No. 7, July 20, 2001 and Vol. 27, No. 10, October 20, 2001.

The Department of Social Services, Office of Community Services, is required by 42 U.S.C. Sec. 671(A)(14) of the Social Security Act to incorporate into the state administrative regulations a goal as to the maximum absolute number or percentage of children in foster care for over 24 continuous months. The department has selected a percentage of all children in foster care receiving assistance under a State Title IV-E program.

#### **Title 67**

#### **SOCIAL SERVICES**

#### **Part V. Office of Community Services**

#### **Subpart 5. Foster Care**

#### **Chapter 35. Payments, Reimbursables and Expenditures**

#### **§3510. Percentage of Title IV-E Children in Foster Care over 24 Months**

A. For the percentage of all children in foster care receiving assistance under the State Title IV-E program who at any given time during the fiscal year will have been in foster care over 24 months, the department will limit that percentage to 55 percent of the total foster care population.

AUTHORITY NOTE: Promulgated in accordance with 42 USC Sec. 671 (A) (14) of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 27:2263 (December 2001).

Gwendolyn P. Hamilton  
Secretary

0112#100

## **RULE**

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

FITAP Time Limit Exemptions  
(LAC 67:III.1223 and 1247)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP).

Pursuant to the authority granted to the Department by the Louisiana Temporary Assistance for Needy Families (TANF) Block Grant, the agency has amended §1247 by allowing certain exceptions to the 60-month time limit for FITAP benefits. Specification of hardship exemptions for the 60-month time limit is needed at this time because families who have been receiving FITAP continuously since implementation of the federal 60-month time limit policy will have exhausted their 60th month time limit by January, 2002. Subsection 1223 has been amended to include non-citizen nationals.

#### **Title 67**

#### **SOCIAL SERVICES**

#### **Part III. Office of Family Support**

#### **Subpart 2. Family Independence Temporary Assistance Program (FITAP)**

#### **Chapter 12. Application, Eligibility, and Furnishing Assistance**

#### **Subchapter B. Conditions of Eligibility**

#### **§1223. Citizenship**

A. Each FITAP recipient must be a United States Citizen, a non-citizen national, or a qualified alien. A non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals. A qualified alien is:

A.1. - B.7. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2448 (December 1999), amended LR 26:1342 (June 2000), LR 27:2263 (December 2001).

#### **§1247. Time Limits**

A. - C. ...

D. Eligibility for cash assistance under a program funded by Part IV of the Social Security Act is limited to a life-time limit of 60 months. No cash assistance will be provided to a family that includes an adult who has received assistance for 60 months (whether or not consecutive) unless one of the following hardship exemptions apply (in households with

two caretaker relatives, both caretaker relatives must meet at least one of these criteria):

1. the caretaker relative is incapacitated or disabled;
2. the caretaker relative has been actively seeking employment by engaging in job-seeking activities and is unable to find employment;
3. factors relating to job availability are unfavorable;
4. the caretaker relative loses his job as a result of factors not related to his job performance;
5. an extension of benefits of up to one year will enable the adult to complete employment-related education or training; or
6. hardships have occurred which affect the caretaker relative's ability to obtain employment.

E. Any month for which such assistance was provided will be disregarded with respect to the individual, if the individual was:

1. a minor child; and
2. not the head of a household or married to the head of a household.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.6., R.S. 46:460.5(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR 26:349 (February 2000), LR 27:2263 (December 2001).

Gwendolyn P. Hamilton  
Secretary

0112#101

## RULE

### Department of Social Services Office of Family Support

Kinship Care Subsidy ProgramC Custody and  
Citizenship Requirements  
(LAC 67:III.5323 and 5327)

The Department of Social Services, Office of Family Support, has amended the LAC 67:III, Subpart 13, the Kinship Care Subsidy Program (KCSP).

Pursuant to Act 947 of the 2001 Regular Session of the Louisiana Legislature, the agency has amended §5327 to allow a qualified relative care-giver up to one year in which to obtain legal custody or guardianship of a minor relative child who resides in the care-giver's home. Subsection 5323 has been updated to include non-citizen nationals.

#### Title 67

### SOCIAL SERVICES

#### Part III. Office of Family Support

##### Subpart 13. Kinship Care Subsidy Program (KCSP) Chapter 53. Application, Eligibility, and Furnishing Assistance

##### Subchapter B. Conditions of Eligibility

##### §5323. Citizenship

A. Each KCSP recipient must be a United States Citizen, a non-citizen national, or a qualified alien. A non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a pers on

whose parents are U.S. non-citizen nationals. A qualified alien is:

A.1. - B.7. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:352 (February 2000), LR 27:2264 (December 2001).

##### §5327. Living in the Home of a Qualified Caretaker Relative

A. A child must reside in the home of a qualified caretaker relative who is responsible for the day-to-day care of the child and who has legal custody or guardianship of the child. The child's parents may not reside in the home. Legal custody or guardianship must be obtained by the caretaker relative within one year of certification of benefits. Failure to obtain such custody within 12 months of certification will result in cessation of benefits. Benefits will not be denied when the qualified caretaker relative or the child is temporarily out of the home. Good cause must be established for a temporary absence of more than 45 days. The following relatives are qualified caretaker relatives:

A.1. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), LR 27:2264 (December 2001).

Gwendolyn P. Hamilton  
Secretary

0112#102

## RULE

### Department of Social Services Office of Family Support

Support Enforcement Services CSuspension of Licenses  
(LAC 67:III.2545)

The Department of Social Services, Office of Family Support, has amended the LAC 67:III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Act 612 of the 2001 Regular Session of the Louisiana Legislature provides this program with the authority to suspend the professional, occupational, business, industrial, and motor vehicle or operator licenses of noncustodial parents who are seriously delinquent in payment of court-ordered child support. Pursuant to this authority, SES adopts new §2545.

#### Title 67

### SOCIAL SERVICES

#### Part III. Office of Family Support

##### Subpart 4. Support Enforcement Services

##### Chapter 25. Support Enforcement

##### Subchapter L. Enforcement of Support Obligations

##### §2545. Administrative Suspension of Licenses Issued by the State of Louisiana

A. SES may administratively suspend licenses of child support obligors who are not in compliance with an order for support. License suspension will be considered if income

assignment is not effective, or if the obligor is not making payments or is making only sporadic payments. An obligor shall meet one of the following criteria to be considered for license suspension:

1. delinquent at least 90 days in the payment of support; or
2. has failed to provide and/or maintain health insurance ordered by a court.

B. SES will send a notice of the intent to suspend licenses to the obligor by certified mail with return receipt requested. If anyone in the obligor's household accepts the notice, it shall be considered as successfully served on the obligor. The notice will provide information concerning the following:

1. the municipal address and telephone number of the office that issued the notice;
2. the docket number and court which issued the order of support;
3. the amount of past-due support;
4. what the obligor must do to comply;
5. a summary of the obligor's right to file a written objection to the suspension of licenses and a description of the administrative hearing process; and
6. the right of an unobligated spouse to provide SES with a notarized affidavit in order to retain use of a shared vehicle.

C. Within 20 days of receipt of the notice, the obligor may act in the following manner to forestall license suspension. SES shall certify the obligor's non-compliance to the appropriate licensing authorities if the obligor fails to act as detailed in this matter.

1. The obligor may enter into a written agreement to pay current and past-due support. If an obligor fails to comply with the terms of a written agreement, SES may proceed with license suspension without further notice.

2. The obligor may file a written objection requesting an administrative hearing to determine whether the obligor is in compliance with an order of support. If the hearing authority rules that the obligor is in arrears with the support order and all legal delays have elapsed, SES shall proceed with license suspension without further notice.

3. The obligor may provide acceptable evidence of the inability to pay.

D. Upon timely receipt of written objection, the administrative hearing authority will schedule and notify obligor of the time and place of the hearing. Such hearing may be conducted by telephone or other electronic media. A decision shall be rendered within 90 days of receipt of the written objection.

E. For a driver's or vehicular license, SES shall be sensitive to the obligor's needs to retain the license for work purposes or to provide medical transportation to a dependent person. In some situations, SES may suspend driving privileges for specific times of the day or for specific days of the week.

F. SES shall issue a release certificate if an obligor becomes compliant with a support order and is eligible to have a license reissued. Such certificate will be sent to the agency or authority that suspended the obligor's license.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 9:315.40 et seq.; 42 U.S.C. 666.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, Support Enforcement Services, LR 27:2264 (December 2001).

Gwendolyn P. Hamilton  
Secretary

0112#103

## RULE

### Department of Social Services Office of Family Support

#### TANF Initiatives Starting Points (LAC 67:III.5501)

The Department of Social Services, Office of Family Support, has amended LAC 67:III to establish Subpart 15, Temporary Assistance For Needy Families (TANF) Initiatives, and adopts new Section 5501, the Starting Points Early Childhood Development Program.

For the previous eight years the agency has funded the Starting Points Early Childhood Development Program from the Child Care and Development Fund. This school-year program is administered by the Department of Education. The agency has chosen to now include Starting Points as a TANF Initiative funded with monies from Louisiana's TANF Block Grant rather than child care monies. An Emergency Rule was necessary effective November 28, 2001, to extend the original Emergency Rule of August 1, 2001.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Office of Family Support

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

#### Chapter 55. TANF Initiatives

#### §5501. Starting Points Early Childhood Development Program

A. The Office of Family Support will enter into a Memorandum of Understanding with the Department of Education, Office of Student and School Performance, to provide quality, early childhood education to certain four-year-old children.

B. These services meet the TANF goal of encouraging the formation and maintenance of two-parent families by providing at-risk families with quality early childhood education to four-year-old children, as well as providing support to the parents in obtaining higher literacy levels, crisis intervention, and positive parenting skills resulting in greater financial and familial stability. Children placed in quality education programs at an early age are more likely to become contributing members of society by developing responsible behaviors and an interest in learning that will eventually lead to graduation. High quality pre-school programs for at-risk children have been shown to result in more positive outcomes relative to academic achievement, resistance to substance abuse and other criminal activities, lower levels of teen pregnancy, and good mental health.

C. Eligibility for services is limited to at-risk families in which the child is one year younger than the eligible age for kindergarten and eligible to receive free or reduced school lunch meals pursuant to the Federal Child Nutrition Program

as documented by a completed application for such meals, whether or not such meals are sought.

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

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:2265 (December 2001).

Gwendolyn P. Hamilton  
Secretary

0112#104

**RULE**

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

Harvest RegulationsCBillfishes (LAC 76:VII.355)

The Wildlife and Fisheries Commission has amended LAC 76:VII.355, increasing the minimum size limit for sailfish from 57 inches to 63 inches lower jaw fork length and provides that all vessels fishing in the federal exclusive economic zone (EEZ) shall comply with all applicable federal laws and regulations. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), R.S. 56:326.1, R.S. 56:326.3 and R.S. 56:320.2(C).

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishery**

**§355. Harvest Regulations, Billfishes**

A. ...

B. Minimum Size Limits: No person shall possess any fish smaller than the minimum size limit.

Species	Minimum Size Limit
1. Blue Marlin	99 inches Lower Jaw Fork Length (LJFL)
2. White Marlin	66 inches Lower Jaw Fork Length (LJFL)
3. Sailfish	63 inches Lower Jaw Fork Length (LJFL)
4. Swordfish	29 inches carcass length or 33 pounds dressed weight

C. - I. ...

J. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulations* as amended Title 50 and 15, for billfishes (*Istiophoridae spp.*) while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange billfishes within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulations* as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:326.1, R.S. 56:326.3 and R.S. 56:320.2(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR

25:542 (March 1999), amended LR 26:1676 (August 2000), LR 27:2266 (December 2001).

James H. Jenkins, Jr.  
Secretary

0112#044

**RULE**

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

Harvest RegulationsCRed Drum (LAC 76:VII.363)

The Wildlife and Fisheries Commission has amended LAC 76:VII.363, which provides that all vessels fishing in the federal exclusive economic zone (EEZ) shall comply with all applicable federal laws and regulations.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishery**

**§363. Red DrumC Harvest Regulations**

A. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulations* as amended Title 50 and 15, for red drum (*Sciaenops ocellata*) while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange red drum within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulations* as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:320.2(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 27:2266 (December 2001).

Mr. James H. Jenkins, Jr.  
Secretary

0112#043

**RULE**

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

Harvest RegulationsCSharks and Sawfishes Harvest  
Regulations  
(LAC 76:VII.357)

The Wildlife and Fisheries Commission has amended LAC 76:VII.357, modifying the existing rule to create compatible regulations in both state and federal waters and provides that all vessels fishing in the federal exclusive economic zone (EEZ) shall comply with all applicable federal laws and regulations. Authority for adoption of this

Rule is included in R.S. 56:6(10), 56:326.E(2), 56:326.1, 56:326.3, and R.S. 56:320.2.C.

## Title 76

### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

#### Chapter 3. Saltwater Sport and Commercial Fishery

#### §357. Sharks and Sawfishes - Harvest Regulations

A. The following rules and regulations are established for the taking and possession of sharks (including sawfishes) (Class *Elasmobranchiomorphi*: Orders *Hexanchiformes*, *Lamniformes*, *Squaliformes*, and *Rajiformes*) from Louisiana waters. The provisions of this Section shall not apply to shrimp or menhaden harvest, and nothing contained herein is intended or shall be construed to repeal, amend, or otherwise modify the provisions of law applicable to shrimp or menhaden fishing, except for provisions:

1. outlawing finning of shark;
2. requiring a shark permit for sale, barter, trade, or exchange;
3. limiting sale, barter, trade, or exchange of sharks during closed seasons;
4. limiting shark retained by non-permit holders to be only as a mixed part of the total harvest, and only retained, held, or sold, purchased, bartered, traded, or exchanged as such; and
5. outlawing transfer of sharks between vessels at sea.

B. For management purposes, sharks are divided into the following categories:

1. small coastal sharks Cbonnethead shark, Atlantic sharpnose shark, blacknose shark, finetooth shark;
2. large coastal sharks Cgreat hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, sandbar shark, silky shark, spinner shark, tiger shark;
3. pelagic sharks Cporbeagle shark, shortfin mako, blue shark, oceanic whitetip shark, thresher shark;
4. prohibited species Cbasking shark, white shark, bigeye sand tiger, sand tiger, whale shark, smalltooth sawfish, largetooth sawfish, Atlantic angel shark, Caribbean sharpnose shark, smalltail shark, bignose shark, Caribbean reef shark, dusky shark, Galapagos shark, narrowtooth shark, night shark, bigeye sixgill shark, bigeye thresher shark, longfin mako, sevengill shark, sixgill shark.

C. In addition to all other licenses and permits required by law, a valid original shark permit shall be annually required for persons commercially taking shark from Louisiana waters and for persons selling, exchanging, or bartering sharks as required by law; the valid original permit shall be in immediate possession of the permittee while engaged in fishing for, possessing, selling, bartering, trading, or exchanging shark.

D. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any sharks in excess of any possession limit for which a commercial permit was issued.

E.1. All persons who do not possess a shark permit issued by the Department of Wildlife and Fisheries, and, if applicable, a federal shark permit issued by the National Marine Fisheries Service, are limited to a recreational possession limit. All persons who do not possess a Louisiana shark permit and, if applicable, a permit issued by the National Marine Fisheries Service under the Federal Fishery

Management Plan for Atlantic Sharks, shall not sell, barter, trade, exchange or attempt to sell, barter, trade or exchange any sharks, or possess any sharks in excess of a recreational possession limit. Sharks taken incidental to menhaden fishing, that are retained on the vessel as part of the harvest, may be retained and sold only as a mixed part of the total harvest, and shall not be retained, held, or sold, purchased, bartered, traded, or exchanged separately. Sharks retained as a result of menhaden fishing shall not exceed legal bycatch allowances for menhaden fishing as provided for in R.S. 56:324.

2. Legally licensed Louisiana wholesale/retail seafood dealers, retail seafood dealers, restaurants, and retail grocers are not required to hold a shark permit in order to purchase, possess, exchange, barter and sell any quantities of sharks, so long as they maintain records as required by R.S. 56:306.5 and R.S. 56:306.6.

F. Sharks taken under a recreational bag limit shall not be sold, purchased, exchanged, traded, bartered, or attempted to be sold, purchased, exchanged, traded, or bartered. A person subject to a bag limit shall not possess at any time, regardless of the number of trips or the duration of a trip, any shark in excess of the recreational bag limits or less than minimum size limits as follows.

1. All sharks taken under a recreational bag limit within or without Louisiana waters must be at least 54 inches fork length, except that the minimum size limit does not apply for Atlantic sharpnose sharks.

2. No more than one shark from either the large coastal, small coastal or pelagic group not taken under a commercial permit may be retained per vessel per trip within or without Louisiana waters, subject to the size limits described in LAC 76:VII.357.F.1, and, in addition, one Atlantic sharpnose shark may be retained per person per trip within or without Louisiana waters. Regardless of the length of a trip, no more than one Atlantic sharpnose shark per person may be possessed.

G Those persons possessing a federal shark permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks are limited to daily take, trip and possession limits as specified in that federal permit. A person aboard a vessel for which a federal shark permit has been issued shall not retain, possess, barter, trade, or exchange shark of any species group for which the commercial quota has been reached and the season closed in federal waters.

H.1. A vessel that has been issued or possesses a federal shark permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks shall not possess on any trip, or land from any trip, or sell, barter, trade, or exchange large coastal species in excess of 4,000 pounds, dressed weight. No person shall purchase, barter, trade, or exchange shark in excess of 4,000 pounds, dressed weight, or from any person who does not possess a Louisiana shark permit or federal permit, if applicable.

2. Persons possessing a Louisiana shark permit shall not possess on any trip, or land from any trip, or sell, large coastal species in excess of 4,000 pounds, dressed weight.

I. A person aboard a vessel for which a federal shark permit has been issued, or persons aboard a vessel fishing for or possessing shark in the EEZ shall comply with all applicable federal regulations.

J. Fins

1. The practice of "finning," that is, removing only the fins and returning the remainder of the shark to the sea, is prohibited within and without Louisiana waters.

2. Shark fins that are possessed aboard or offloaded from a fishing vessel must not exceed 5 percent of the weight of the shark carcasses. All fins must be weighed in conjunction with the weighing of the carcasses at the vessel's first point of landing and such weights of the fins landed must be recorded on dealer records in compliance with R.S. 56:306.5 and R.S. 56:306.6. Fins from shark harvested by a vessel that are disproportionate to the weight of the carcasses landed shall not be sold, purchased, traded, or bartered or attempted to be sold, purchased, traded, or bartered.

3. Shark fins shall not be possessed aboard a fishing vessel after the vessel's first point of landing.

K. Prohibited Species

1. No person shall take, possess, purchase, sell, barter, exchange or attempt to possess, purchase, sell, barter, or exchange any of the following species or parts thereof:

- a. basking shark-*Cetorhinus maximus*;
- b. white shark-*Carcharodon carcharias*;
- c. bigeye sand tiger-*Odontaspis noronhai*;
- d. sand tiger-*Odontaspis Taurus*;
- e. whale shark-*Rhincodon typus*;
- f. smalltooth sawfish-*Pristis pectinata*;
- g. largetooth sawfish-*Pristis pristis*;
- h. Atlantic angel shark-*Squatina dumerili*;
- i. Caribbean sharpnose shark-*Rhizoprionodon porosus*;
- j. smalltail shark-*Carcharhinus porosus*;
- k. bignose shark-*Carcharhinus altimus*;
- l. Caribbean reef shark-*Carcharhinus perezi*;
- m. dusky shark-*Carcharhinus obscurus*;
- n. Galapagos shark-*Carcharhinus galapagensis*;
- o. narrowtooth shark-*Carcharhinus brachyurus*;
- p. night shark-*Carcharhinus signatus*;
- q. bigeye sixgill shark-*Hexanchus vitulus*;
- r. bigeye thresher shark-*Alopias superciliosus*;
- s. longfin mako shark-*Isurus paucus*;
- t. sevengill shark-*Hepranchias perlo*;
- u. sixgill shark-*Hexanchus griseus*.

2. Notwithstanding other provisions of this part, a person may fish for, but not retain, white sharks (*Carcharodon carcharias*) with rod and reel only under a catch and release program, provided the person releases and returns such fish to the sea immediately with a minimum of injury.

3. Notwithstanding other provisions of this part, smalltooth sawfish or largetooth sawfish may be possessed as authorized by a special scientific and educational collecting permit issued by the department under R.S. 56:318, including whatever conditions that the department may deem necessary to ensure the maintenance and protection of the species. Nothing herein shall prohibit the possession of smalltooth sawfish or largetooth sawfish, or parts thereof, that were possessed prior to the effective date of this rule.

L. No person aboard any vessel shall transfer or cause the transfer of sharks between vessels on state or federal waters. Standard menhaden harvesting activities do not constitute transfer of sharks between vessels at sea.

M. Seasonal Closures

1. All Louisiana state waters out to the seaward boundary of the Louisiana Territorial Sea shall be closed to the recreational and commercial harvest of all sharks between April 1 and June 30 of each year. A holder of a federal shark permit may legally harvest sharks from federal waters beyond the Louisiana Territorial Sea and bring those sharks into Louisiana waters for sale within the provisions of that federal shark permit. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell sharks from the closed area. Effective with the closure, no person shall retain or possess any sharks in the closed area. Sharks taken incidental to shrimp or menhaden fishing in the closed area, that are retained on the vessel as part of the harvest, may be retained only as a mixed part of the total harvest, and shall not be retained, held, purchased, bartered, traded, exchanged, sold or attempted to be purchased, bartered, traded, exchanged or sold.

2. The secretary of the Department of Wildlife and Fisheries is hereby authorized to close any recreational or commercial fishery for sharks, within and without Louisiana's territorial waters, when the secretary is notified by the National Marine Fisheries Service that the seasonal quota for that species group and fishery has been met. The closure order shall close the fishery until the date projected for the reopening of that fishery in the adjacent federal waters. The secretary is also hereby authorized to modify any such closure order to maintain consistency with reopening dates in the adjacent federal waters, should the federal closure dates be modified.

N. The fishing year for shark shall begin on January 1, 1998 and every January 1 thereafter.

O. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulations* as amended Title 50 and 15, for sharks and sawfishes while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange sharks and sawfishes within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:326(E)(2), R.S. 56:326.1, R.S. 56:326.3, and R.S. 56:320.2(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:543 (March 1999), amended LR 27:2267 (December 2001).

James H. Jenkins, Jr.  
Secretary

0112#045

**RULE**

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

**Harvest Regulations Tuna (LAC 76:VII.361)**

The Wildlife and Fisheries Commission has amended LAC 76:VII.361, modifying the Rule for the harvest of Atlantic tunas by adding a minimum size limit for the harvest of bluefin tuna, removing Atlantic bonito from the list of permitted tunas in Louisiana waters and provides that all vessels fishing in the federal exclusive economic zone (EEZ) shall comply with all applicable federal laws and regulations. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), R.S. 56:326.1, R.S. 56:326.3 and R.S. 56:320.2(C).

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishery**

**§361. Tuna Harvest Regulations**

**A. Bag and Possession Limits, Recreational**

Species	Bag and Possession Limit
1. Yellowfin Tuna	3 fish per person

**B. Size Limits, Recreational and Commercial**

Species	Minimum Size Limit
1. Yellowfin Tuna	27 inches Curved Fork Length (CFL)
2. Bigeye Tuna	27 inches Curved Fork Length (CFL)
3. Bluefin Tuna*	27 inches Curved Fork Length (CFL)

\*The size class of a bluefin tuna found with the head removed shall be determined using pectoral fin curved fork length (PFCFL) multiplied by a conversion factor of 1.35.

NOTE: Curved Fork Length (CFL): the length of a fish measured from the tip of the upper jaw to the fork of the tail along the contour of the body in a line that runs along the top of the pectoral fin and the top of the caudal keel. Pectoral Fin Curved Fork Length (PFCFL) means the length of a beheaded fish from the dorsal insertion of the pectoral fin to the fork of the tail measured along the contour of the body in a line that runs along the top of the pectoral fin and the top of the caudal keel.

C. No person shall take or have in their possession any species of tuna, less than the minimum size or in excess of the take or possession limits. The possession limit on tunas applies to tuna taken within or outside Louisiana territorial waters.

**D. Permits**

1. Recreational. Persons aboard a vessel whether within or outside Louisiana territorial waters possessing any of the following tuna species: Atlantic bluefin tuna, yellowfin tuna, bigeye tuna, skipjack tuna and albacore are required to have a valid federal recreational tuna permit in their immediate possession on board the vessel.

2. Commercial. Persons harvesting the following tuna species: Atlantic bluefin tuna, yellowfin tuna, bigeye tuna, skipjack tuna and albacore whether within or outside Louisiana state territorial waters for commercial purposes or possessing such tuna species in excess of a recreational take limit are required to have a valid federal commercial tuna permit in their immediate possession on board the vessel. No person shall sell, barter, trade or exchange or attempt to sell, barter, trade or exchange any species of tuna without a valid

federal commercial tuna permit. No person shall purchase, barter, trade or exchange or attempt to purchase, barter, trade or exchange any species of tuna from any person who harvested tuna without a valid federal commercial tuna permit.

3. No person aboard any commercial vessel shall transfer or cause the transfer of fish between vessels on state or federal waters.

E. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulations* as amended Title 50 and 15, for tunas while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange tunas within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulations* as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:326.1, R.S. 56:326.3 and R.S. 56:320.2(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:2834 (December 2000), amended LR 27:2269 (December 2001).

James H. Jenkins, Jr.  
Secretary

0112#042

**RULE**

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

**Pompano Permits (LAC 76:VII.703)**

The Wildlife and Fisheries Commission has amended LAC 76:VII.355, modifying the application procedures and removing the phrase "excluding islands." Authority for adoption of this Rule is included in R.S. 56:6(25)(a) and R.S. 56:406(A)(3).

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 7. Experimental Fisheries Program**

**§703. Pompano Permits**

**A. Harvest Regulations**

1. - 8. ...

9. Pompano strike nets may be used during the period from August 1 through October 31 of each year in waters in excess of seven feet in depth and beyond 2,500 feet from land within the Chandeleur and Breton Sound area described in R.S. 56:406(A)(2).

10. - 13. ...

**B. Qualification for Permit**

1. All permits shall be applied for and/or granted from January 1 to April 30 of each year from the New Orleans or Baton Rouge offices. All permits expire December 31 following the date of issuance.

2. - 3. ...

4. Proof of ownership of the proposed permitted vessel(s) and proof that all applicable licenses have been applied for shall be provided at the time of application. Proof of bona fide residency, as defined in R.S. 56:8(12), is also required at this time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a) and R.S. 56:406A(3).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:119 (February 1986), amended LR 12:846 (December 1986), amended by the Office of Fisheries, LR 16:322 (April 1990), LR 22:859 (September 1996), amended by the Wildlife and Fisheries Commission, LR 26:2332 (October 2000), LR 27:2269 (December 2001).

James H. Jenkins, Jr.  
Secretary

0112#046

**RULE**

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

2002 Wild Turkey Season (LAC 76:XIX.113)

The Wildlife and Fisheries Commission has amended the rules and regulations for the 2002 season.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part XIX. Hunting and WMA Regulations**

**Chapter 1. Resident Game Hunting Season**

**§113. Turkey Hunting Regulations**

A. Daily limit is one gobbler, two gobblers per season. Still hunting only. Use of dogs, baiting, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzleloading shotguns, using shot not larger than #2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited.

B. No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys.

C. A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed.

D. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closure.

E. The Department of Wildlife and Fisheries strongly discourages feeding agricultural grains to wild turkeys as this practice increases the risk of birds contracting potentially lethal diseases. Repeatedly placing grain in the same area may expose otherwise healthy birds to disease contaminated soils, grain containing lethal toxins and other

diseased turkeys using the same feeding site. Properly distributed food plots (clovers, wheat, millet and chufa) are far more desirable for turkeys and have the added benefit of appealing to a wide variety of wildlife.

F. It is unlawful to take from the wild or possess in captivity any live wild turkeys or their eggs. No pen raised turkeys from within or without the state shall be liberated (released) within the state.

G. All licensed turkey hunters are required to have a turkey stamp in their possession while turkey hunting in addition to basic and big game hunting licenses. Additionally, a WMA Hunting Permit is required of any person (age 18-59) who hunts on land administered by the Department of Wildlife and Fisheries, including Wildlife Management Areas, Wildlife Refuges, and Habitat Conservation Areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2263 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001).

**§115. Statewide Turkey Hunting Areas C Resident Game Birds and Animals**

A. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

Species	Season Dates	Daily Bag Limit	Possession Limit
Turkey	See Schedule	1	2/season

B. Turkey Hunting Schedule

Area	Season Dates
A	March 23 - April 21
B	March 23 - April 14
C	March 23 - March 31

C. 2002 Turkey Hunting Season C Open Only in the Following Areas

1. Area A C March 23-April 21

a. All of the following parishes are open:

- i. East Baton Rouge;
- ii. East Feliciana;
- iii. LaSalle;
- iv. Livingston;
- v. Natchitoches (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
- vi. Pointe Coupee (Exception: see Sherburne WMA for special dates on all state, federal and private lands within Sherburne boundaries);
- vii. St. Helena;
- viii. St. Tammany;
- ix. Tangipahoa;
- x. Washington;
- xi. West Baton Rouge;
- xii. West Feliciana (including Raccourci Island).

b. Portions of the following parishes are also open:

- i. Allen: North of LA 26 from DeRidder to the junction of LA 104 and north of LA 104;
- ii. Avoyelles: That portion bounded on the east by the Atchafalaya River, on the north by Red River to the Brouillette Community, on the west by LA 452 from



Brouillette to LA 1, on the south by LA 1, eastward to Hamburg, thence by the West Atchafalaya Basin Protection levee southward;

iii. Beauregard: North of LA 26 east of DeRidder, north and east of US 171-190 from the junction of LA 26 to DeRidder, and north of US 190 from DeRidder to Texas state line;

iv. Caldwell: West of Ouachita River southward to Catahoula Parish line, east of LA 165 from LaSalle Parish line to the junction of LA 126, north of LA 126 westward to the Winn Parish line;

v. Catahoula: West of Ouachita River southward to LA 559 at Duty Ferry, north of LA 559 to LA 124, south and west of LA 124 from Duty Ferry to LA 8 at Harrisonburg and north of LA 8 to LA 126, north and east of LA 126. ALSO that portion lying east of LA 15;

vi. Concordia: That portion east of LA 15 and west of US 65 from its juncture with LA 15 at Clayton;

vii. Evangeline: North and west of LA 115, north of LA 106 from St. Landry to LA 13, west of LA 13 from Pine Prairie to Mamou and north of LA 104 west of Mamou;

viii. Franklin: That portion lying east of LA 17 and east of LA 15 from its juncture with LA 17 at Winnsboro;

ix. Grant: All of the parish except that portion of land that lies north of the Red River between US 71 and LA 8. Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates;

x. Iberville: West of LA 1. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;

xi. Madison: That portion lying west of US 65 and south of US 80;

xii. Rapides: All of the parish except that portion of lands that lies north of the Red River and south of US 71 from its juncture with the Red River northward to the Grant Parish line. Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest season dates;

xiii. Richland: That portion south of US 80 and east of LA 17;

xiv. Sabine: That portion north of LA 6 from Toledo Bend Lake to Many; east of US 171 from Many to the Vernon Parish line;

xv. St. Landry: That portion bounded on the west by the West Atchafalaya Basin Protection Levee and on the east by the Atchafalaya River. EXCEPTION: the Indian Bayou Area, see Federal Lands Hunting Schedule for Indian Bayou Area dates;

xvi. Upper St. Martin: All within the Atchafalaya Basin. Exceptions: Sherburne WMA and Indian Bayou Area, see WMA Turkey Hunting Schedule for special season dates on all state, federal and private lands within Sherburne WMA boundaries and see Federal Lands Hunting Schedule for Indian Bayou dates;

xvii. Tensas: That portion west of US 65 from the Concordia Parish line to its juncture with LA 128, north of LA 128 to St. Joseph; west and north of LA 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands east of the main channel of the Mississippi River;

xviii. Vernon: That portion east of US 171 from the Sabine Parish line to the junction of LA 111, south of LA 111 westward to LA 392, and south of LA 392 westward to the Sabine Parish line. Exception: See Federal Lands

Hunting Schedule for Kisatchie National Forest season dates.

2. Area BCMarch 23-April 14

a. All of the following parishes are open:

i. Bienville;

ii. Bossier;

iii. Caddo;

iv. Claiborne;

v. DeSoto;

vi. Lincoln;

vii. Red River;

viii. Union;

ix. Webster (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);

x. Winn, (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);

b. Portions of the following parishes are open:

i. Allen: South and west of LA 26 from DeRidder to US 190 east of Elton, north of US 190 from the junction of LA 26 to Kinder and west of US 165 south of Kinder;

ii. Beauregard: South of LA 26 east of DeRidder, east of US 171 from the junction of LA 26 and south of LA 12 west of Ragley;

iii. Calcasieu: South of LA 12 east of DeQuincy, east of LA 27 from DeQuincy to I-10 and North of I-10 east of Sulphur;

iv. East Carroll: East of US 65 from Arkansas state line to Madison Parish line;

v. Jackson: West of Parish Road 243 from Lincoln Parish line to Parish Road 238, west and south of Parish Road 238 to LA 144, west of LA 144 to LA 34, west of LA 34 to Chatham, north and west of LA 4 from Chatham to Weston, north and west of LA 505 from Weston to Wyatt, west of US 167 from Wyatt to Winn Parish line;

vi. Jefferson Davis: North of US 190 from junction with LA 26 to Kinder, west of US 165 and north of I-10 west from junction of US 165;

vii. Ouachita: East of LA 143 from Union Parish line to US 80 in West Monroe, north of US 80 to LA 139, west of LA 139 to the Morehouse Parish line;

viii. Morehouse: West of US 165 from the Arkansas line to Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to US 165, north of US 165 to LA B9, west of LA 139 to Ouachita Parish line;

3. Area C - March 23 - March 31

a. Portions of the following parishes are open:

i. Ascension: All east of the Mississippi River;

ii. Catahoula: That portion lying south of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to LA 8 at Harrisonburg, west of LA 8 to LA 913, west of LA 913 and LA 15 to Deer Creek;

iii. Concordia: North and east of Sugar Mill Chute (Concordia Parish) from the state line westward to Red River, east of Red River northward to Cocodrie Bayou, east of Cocodrie Bayou northward to US 84, south of US 84 eastward to LA 15 (Ferriday), east of LA 15 northward to US 65 (Clayton), east of US 65 northward to Tensas Parish line;

iv. Franklin: That portion lying west of LA 17, from Richland Parish line to LA 577 at Crowville, north of

LA 577 to LA 15 at Baskin, east of LA 15 to Big Creek, and south and east of Big Creek to Richland Parish line;

v. Iberville: All east of the Mississippi River;

vi. Madison: South of US 80 and east of US 65 to Tensas Parish line and all lands lying east of the main channel of the Mississippi River;

vii. Richland: West of LA 17 from Franklin Parish line to Ringle Rd., south of Ringle Rd. to Ferguson Rd., south of Ferguson Rd. to Little Rd., south of Little Rd. to Big Creek, east of Big Creek to Franklin Parish line;

viii. Tensas: East and south of US 65 from Concordia Parish line to LA 128, south of LA 128 to St. Joseph, east and south of LA 605, 604 and 3078 northward to Port Gibson Ferry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2264 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001).

**§117. 2002 Wildlife Management Area Turkey Hunting Regulations**

**A. General**

1. The following rules and regulations concerning management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject the individual to citation and/or expulsion from the management area.

2. Only those Wildlife Management Areas listed are open to turkey hunting.

3. ATVs, ATCs and motorcycles cannot be left overnight on WMAs EXCEPT in designated camping areas. ATVs are prohibited from two hours after sunset to 3:00 AM. All roads including trails and roads designated as ATV only trails shall be closed to ATVs from March 1 through August 31 unless otherwise specified. ATV off-road or off-trail travel is prohibited. Certain trails may be open during this time period to provide access for fishing or other purposes. These trails will be marked by signs at the entrance of the trail. Otherwise, only walk-in hunting is permitted (bicycles permitted).

4. Bag limits on WMAs are part of the season bag limit. Only one turkey is allowed to be taken during special lottery hunts.

**B. Permits**

1. Self-Clearing Permits: All turkey hunts, including lottery hunts, are self-clearing. Hunters must check in daily by obtaining a permit from a self-clearing station prior to hunting. The self-clearing permit must be in the hunter's possession while hunting. Upon completion of each day's hunt, the hunter must check out by completing and depositing the hunter report portion of the permit in the check-out box at a self-clearing station before exiting the WMA.

2. Lottery Hunts: Bayou Macon, Dewey Wills, Loggy Bayou, Sabine, Sherburne, Sicily Island, Tunica Hills, Union and West Bay WMAs are restricted to those persons selected as a result of the pre-application lottery. Special youth only lottery hunts will be held on Big Lake, Bens Creek, Fort Polk, Loggy Bayou, Sherburne, and West Bay WMAs.

Deadline for receiving applications for all lottery hunts is February 15, 2002. An application fee of \$5 must be sent with each application. Applicants may submit only one application and will be selected for one WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Contact any district office for applications. Hunters must abide by self-clearing permit requirements. Youths chosen for special youth only hunts will be guided by members of the Louisiana Chapter of the National Wild Turkey Federation. One family member may accompany the youth and guide, but may not hunt.

**C. Wildlife Management Area Turkey Hunting Schedule\***

WMA	Season Dates	Permit Requirements	Lottery Dates**
Bayou Macon	April 6-7	Self-Clearing	April 6-7
Bens Creek <sup>1</sup>	March 23-April 14	Self-Clearing	None
Big Lake	March 23-31	Self-Clearing	None
Bodcau	March 23-April 7	Self-Clearing	None
Boeuf	March 23-31	Self-Clearing	None
Boise Vernon	March 23-April 14	Self-Clearing	None
Camp Beauregard	March 23-April 7	Self-Clearing	None
Dewey Wills	March 23-24 March 30-31	Self-Clearing	March 23-24 March 30-31
Fort Polk	March 23-April 21	Self-Clearing	None
Georgia-Pacific	March 23-31	Self-Clearing	None
Grassy Lake	March 23-April 7	Self-Clearing	None
Hutchinson Creek	March 23-April 21	Self-Clearing	None
Jackson-Bienville	March 23-April 7	Self-Clearing	None
Little River	March 23-April 7	Self-clearing	None
Loggy Bayou	April 13-14	Self-Clearing	April 13-14
Pearl River	March 23-April 14	Self-Clearing	None
Peason Ridge	March 23-April 21	Self-Clearing	None
Pomme de Terre	March 23-April 7	Self-Clearing	None
Red River	March 23-31	Self-Clearing	None
Sabine	March 23-24 March 30-31	Self-Clearing	March 23-24 March 30-31
Sandy Hollow <sup>1</sup>	March 23-April 14	Self-Clearing	None
Sherburne <sup>2</sup>	March 23-31	Self-Clearing	March 23-24 March 25-27
Sicily Island	March 23-31	Self-Clearing	March 23-25 March 26-28 March 29-31
Three Rivers	March 23-31	Self-Clearing	None
Tunica Hills South Tract	March 23-24 March 30-31 April 13-14 April 20-21	Self-Clearing	March 23-24 March 30-31 April 13-14 April 20-21
Tunica Hills Angola Tract <sup>3</sup>	March 23-24 March 30-31 April 13-14 April 20-21	Self-Clearing	March 23-24 March 30-31 April 13-14 April 20-21
Union	April 6-7	Self-Clearing	April 6-7
Walnut Hill	March 23-April 21	Self-Clearing	None
West Bay	March 23-24 March 30-31	Self-Clearing	March 23-24 March 30-31

\*Only those Wildlife Management Areas listed have a turkey hunting season. All other areas are closed.

\*\*The deadline for receiving applications for all turkey Lottery Hunts on WMAs is February 15, 2002.

<sup>1</sup>No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

<sup>2</sup>All turkeys harvested on Sherburne WMA must be weighed and checked at WMA headquarters.

<sup>3</sup>Scouting access limited. Contact Region 7 office for details (225) 765-2360.

#### D. Wildlife Management Area Youth Hunts

WMA	Lottery Youth Hunt Date
Bens Creek	March 16
Big Lake	March 16
Fort Polk	March 16
Loggy Bayou	April 6
Sherburne	March 16
West Bay	March 16

#### E. Federal Lands Turkey Hunting Schedule

1. Kisatchie National Forest (KNF) turkey hunting schedule: Caney Ranger District, March 23-April 7; all remaining KNF lands, March 23-April 14 (including Catahoula and Red Dirt National Wildlife Management Preserves).

2. Indian Bayou Area (U.S. Army Corps of Engineers), turkey hunting schedule: March 23~~B~~31 lottery hunt only on March 23-24 and March 25-27. Contact USCOE at 337-585-0856 for further information.

3. National Wildlife Refuges: Bogue Chitto NWR, March 23~~B~~April 21; Lake Ophelia NWR, March 23~~B~~25 (lottery only), March 30-April 1 (lottery only), April 6; Tensas NWR, March 23~~B~~April 21. Contact the U.S. Fish and Wildlife Service for information regarding NWR hunts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 25:2265 (November 1999), amended LR 26:2636 (November 2000), LR 27:2272 (December 2001).

Dr. H. Jerry Stone  
Chairman

0112#041

# Notices of Intent

## NOTICE OF INTENT

Department of Civil Service  
Civil Service Commission

Civil Service Rule 6.16.3

The State Civil Service Commission will hold a public hearing on Wednesday, January 9, 2002, to consider the amendment of Civil Service Rule 6.16.3. The hearing will begin at 9 a.m. and will be held in the Department of State Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana.

Consideration will be given to the following:

### Amend Rule 6.16.3

This Rule establishes an incentive program designed to encourage increased efficiency and better performance in governmental operations. Subject to the provisions of Rule 6.29, and after obtaining a reward of monies from the incentive fund as established in the Louisiana Government Performance and Accountability Act, an appointing authority may implement an exceptional performance and gainsharing incentive reward program which provides for supplemental compensation to identify classified employees or classified employee groups responsible for efficiencies or exceptional performance. Where the agency is not covered by the Louisiana Government Performance and Accountability Act, the appointing authority shall obtain certification of efficiencies or exceptional performance as required by the Director of the Department of Civil Service. Employees must have been employed by the agency, program, or activity during the period when the efficiencies or the exceptional performance occurred and at the time the reward is distributed. Monetary rewards shall not be part of the classified employee's base pay, but rather shall be a lump sum reward not to exceed 20 percent of his annual base salary. Such reward shall not be considered in the determination of retirement benefits. Each appointing authority's supplemental compensation plan must be approved by the Civil Service Commission prior to distribution of the monies. The plans shall be posted in a manner that assures their availability to all employees. Such public posting shall identify the reward recipients and the amount received by each recipient.

### Explanation

This amendment will ensure that the Rule more closely follows the parameters set in the Louisiana Government Performance and Accountability Act.

Allen Reynolds  
Civil Service Director

0112#033

## NOTICE OF INTENT

Department of Civil Service  
Civil Service Commission

Civil Service Rules 12.6, 11.10.1, and 11.8(a)

The State Civil Service Commission will hold a public hearing on Wednesday, January 9, 2002 to consider the following rule proposals. The hearing will begin at 9 a.m. and will be held in the Department of Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana.

The following will be considered at the meeting:

### Amend Rule 12.6

### Non-Disciplinary Removals

The provisions of this Rule shall be made generally available to all employees. An employee may be non-disciplinarily removed under the following circumstances. When an employee is removed under this Rule, the adverse consequences of Rules 6.5(c); 7.5(a)7; 8.9(d); 8.13(a)7; 8.15(d); 8.18(d) and (e); 11.18(b) and 17.25(e)4 shall not apply.

#### (a) Absence from Work

An employee may be removed under the following circumstances:

1. when, on the effective date of removal, the employee is unable to perform the essential functions of his job due to illness or medical disability and he has fewer than eight hours of sick leave to his credit and his job must be performed without further interruption. When an employee is non-disciplinarily removed under this provision, he shall be paid for all remaining sick leave; or

2. when an employee has more than nine unscheduled absences during any consecutive 26-week period. "Unscheduled absences," for the purpose of this rule, shall be defined by the appointing authority. One unscheduled absence may be any continuous period of absence, regardless of its duration. Approval of leave, after the fact, to cover an unscheduled absence shall not prevent the absence from being considered unscheduled;

#### (b) ...

(c) when the employee holds more than one position in the state service and the multiple employment causes an employing agency to be liable for overtime payments under the Fair Labor Standards Act and, after having been provided an opportunity to do so, the employee has refused to resign from one of the positions.

### Explanation

It is important to note that the proposed amendments in Subsection (a) allowing non-disciplinary removals for absence from work are do not have to be used by agencies. Its use is optional with appointing authorities.

Amended Subsection (a) gives agencies new grounds for non-disciplinary removals. The intent of these changes is to give agencies more practical means of dealing with absenteeism, which is a significant obstacle to good employee morale and productivity in state government. This proposal will remove from agencies the difficulty of proving sick leave abuse or taking disciplinary action for such absences. Rather, agencies could remove employees based solely on degree of absenteeism, including unscheduled absences (subject to the Americans with Disabilities Act and the Family and Medical Leave Act). Through these more practical means of controlling absenteeism, supervisors will be empowered to improve morale and productivity.

One unscheduled absence referred to in Subsection (a)2, may be of any continuous duration (e.g., one hour, four hours, one day, etc., at the discretion of the agency). An appointing authority should set a policy or policies concerning such absences. The appointing authority may have different policies for different groups of workers due to different work situations. For example, a policy defining unscheduled absences for shift-workers at 24-hour institutions may vary from another one established for that institution's daytime office workers. Unscheduled absences may also include those requested by employees to leave work early. For policy purposes, the agency may count either all such absences, no matter how short their duration, or count as "unscheduled" only those absences that last a minimum period of time, such as four hours or a complete workday.

In cases of removal under Subsection (a)1, the employee would be paid for all remaining sick leave. This provision for payment of sick leave upon separation is unique to this type of removal, because the employee is ill or disabled and is therefore entitled to be compensated for legitimate sick leave that he was unable to use due to his separation, which is not the case in other types of removals or resignations.

Proposed Subsections (b) and (c) retain current provisions for non-disciplinary removals, although proposed Subsection (c) has been moved from its placement in the current Subsection (a).

#### **Adopt Rule 11.10.1**

##### **11.10.1 Payment for Sick Leave When Employee Is Non-Disciplinarily Removed under Rule 12.6(a)1**

When an employee is removed in accordance with Rule 12.6(a)1, he shall be paid the value of his accrued sick leave in a lump sum, based on his regular hourly rate of pay, unless he is reemployed in probational or permanent status in the classified state service or is reemployed in the unclassified service, without a break in service of one or more working days, in which cases the sick leave will transfer to the employing agency.

#### **Explanation**

This Rule requires that when an employee is non-disciplinarily removed under the provisions of Rule 12.6(a)1, that he be paid for his remaining accrued sick leave, unless he is reappointed without a break in service of one or more working days, in which case his leave will transfer to the employing agency. This provision for payment of sick leave upon removal is unique to the type of removal stated in Rule 12.6(a)1 because the employee is ill or disabled and is therefore entitled to be compensated for legitimate sick that he was unable to use due to his removal, which is not the case in other types of removals or resignations.

#### **Amend Rule 11.18(a)**

##### **Cancellation or Continuance of Annual and Sick Leave**

(a) When an employee separates from the state classified service, all accrued annual leave except that which must be paid and all accrued sick leave except that which must be paid under Rule 11.10.1 shall be cancelled; however, if the employee is reemployed in probational or permanent status in the classified service or is reemployed in the unclassified service without a break in service of one or more working days, all of the employee's annual and sick leave shall be transferred to the employing agency.

(b) - (e) ...

#### **Explanation**

This amendment accommodates newly proposed Rule 11.10.1 requiring payment for all remaining sick leave for employees who are non-disciplinarily separated under Rule 12.6(a)1. This provision for payment of sick leave upon separation is unique to this type of removal because the employee is ill or disabled and is therefore entitled to be compensated for legitimate sick leave that he was unable to use due to his separation, which is not the case in other types of removals or resignations.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the Director of State Civil Service, Post Office Box 94111, Baton Rouge, LA 70804-9111.

If any accommodations are needed, please notify us prior to this meeting.

Allen H. Reynolds  
Director

0112#034

#### **NOTICE OF INTENT**

##### **Board of Elementary and Secondary Education**

Bulletin 746C Louisiana Standards for State Certification  
of School PersonnelC Out-of-State Applicant  
Certification Policy (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. The proposed policy includes language relative to Louisiana licensing of an individual who has been prepared as a teacher in another state and/or who is certified in another state. This policy reflects two changes from prior out of state licensure policy: (1) the term of the provisional certificate that allows time for the candidate to satisfy Louisiana PRAXIS examination requirements has been extended from one year to three years; and (2) under specified conditions, a teacher who is licensed in another state and has at least four years of successful experience can be exempted from Louisiana PRAXIS examination requirements. The changes in state policy stem directly from changes in law (HB 221).

**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**  
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 in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825-827 (June 2001), LR 27:827-828 (June 2001), LR 27:828-829 (June 2001), LR 28:

**Out-of-State Applicant**

Certification is authorized only for classroom teachers for levels or subjects available in Louisiana. These regulations shall not apply to administrative, supervisory, or special services requiring a minimum of a master's degree. A teacher who qualifies for a certificate under the out-of-state plan shall be issued either a Type C certificate or (if lacking any of the testing requirements) a three-year nonrenewable provisional certificate.

Individuals qualifying under this plan shall meet requirements 1 (A or B), either 2 or 3, and 4 under the following provisions:

I. The applicant must meet the requirements specified under A or B, below:

A. Approved Program Plan

1. The applicant must possess an earned baccalaureate degree from a regionally accredited institution.

2. The applicant shall have completed a teacher education program at an institution that is accredited at the time of graduation by both the state and regional accrediting agencies.

3. The applicant shall have been issued a regular certificate by the state where he completed the teacher education curriculum. If a certificate was not issued, a letter from the State Department of Education verifying eligibility for a certificate in the area(s) is acceptable.

- or -

B. Certificate Plan

1. The applicant must possess an earned baccalaureate degree from a regionally accredited institution.

2. The applicant shall have been issued a regular teaching certificate by another state. If a certificate was not issued, a letter from the State Department of Education verifying eligibility for a certificate in the area(s) is acceptable.

3. The applicant shall have completed student teaching or internship in the area(s) of certification or have three years of successful teaching experience in the area(s) of certification.

II. The PRAXIS/National Teacher Examinations are required, except as listed in paragraph 3 below. The applicant must present the appropriate scores on the NTE core battery or common exams or the corresponding PRAXIS tests: Pre-Professional Skills Tests (PPSTs) in Reading, Writing, and Mathematics; and the Principles of Learning and Teaching (PLT) K-6, 5-9, or 7-12; and the

specialty area exam in the area in which the teacher education program was completed or the area in which the initial certificate was issued. If there is no specialty area exam score indicated on the Louisiana list of PRAXIS/NTE area scores, only the core battery or common exams of PPSTs and PLT will be required. *The applicant lacking the PRAXIS/NTE may be issued a three-year nonrenewable provisional certificate upon request.*

III. The applicant who holds a valid out-of-state teaching certificate, has at least four years of successful teaching experience in another state as certified by the previous out-of-state school district(s) from satisfactory annual evaluation results, and has completed one year of employment as a teacher in the Louisiana public school system shall not be required to take required Louisiana PRAXIS/NTE examinations or to submit examination scores from any examination previously taken in another state as a prerequisite to the granting of certification in Louisiana, provided that:

A. the teacher meets all other requirements for a Louisiana certificate as may be required by law or board policy;

B. the local superintendent or his designee of the public school system employing the teacher has recommended the teacher for employment for the following school year, subject to the receipt of a valid Louisiana teaching certificate; and

C. the local superintendent or his designee has requested that the teacher be granted a valid Louisiana teaching certificate.

IV. The applicant who has earned a degree five or more years prior to the date of application must have taught as a regular teacher at least one semester within the five-year period immediately preceding the date of application or first employment in Louisiana. Lacking this experience, he shall be required to earn six semester hours in resident, correspondence, and/or extension credits related to his teaching field. These refresher credits must be earned during the five-year period immediately preceding the date of application.

The Louisiana certificate issued shall cover the elementary, secondary, or special education level, depending upon the level of preparation. For the secondary level of teaching, the Louisiana certificate shall cover only major and minor subjects of preparation.

For the required application form, the applicant should consult the Louisiana Department of Education website ([www.doe.state.la.us](http://www.doe.state.la.us)) or write to Certification and Higher Education, State Department of Education, P.O. Box 94064, Baton Rouge, LA 70804-9064.

\* \* \*

Interested persons may submit comments until 4:30 p.m., February 8, 2002, 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 746C Louisiana Standards for  
State Certification of School PersonnelC Out of State  
Applicant Certification Policy**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
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)  
This policy requires that any person who is prepared as a teacher and/or is certified in another state can apply for a Louisiana certificate and be issued a three-year provisional license rather than a one-year license, as in the past. Furthermore, if the applicant has at least four years of successful experience, this policy allows exemption from Louisiana PRAXIS examination requirements, under specified conditions.
- 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  
0112#019

H. Gordon Monk  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC PRAXIS/NTE Scores (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. The Practitioner Teacher Program provides a streamlined alternate certification option that allows individuals to become certified with a Type B certificate after three years of full-time teaching and combined coursework, if they demonstrate required content knowledge, instructional expertise, and classroom management skills. Practitioner teachers who complete the required course requirements (or equivalent contact hours) and demonstrate proficiency during their first year of teaching can obtain a Level B Professional License after successfully completing all requirements of the Practitioner Teacher Program (which includes successful completion of the Louisiana Assistance and Assessment Program and passing scores on the PRAXIS) and completing a total of three years of teaching. An exemption from the assessment portion of the Louisiana Teacher Assistance and Assessment Program is provided under specified conditions.

**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 in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825-827 (June 2001), LR 27:827-828 (June 2001), LR 27:828-829 (June 2001), LR 28:

**Practitioner Teacher Program**

**A. Major Components of the Practitioner Teacher Program**

1. Universities, school districts, or private providers (e.g., Teach for America) will be able to offer a Practitioner Teacher Program.

2. Individuals will be considered for admission to a Practitioner Teacher Program if they possess a baccalaureate degree from a regionally-accredited university with a 2.5 or higher GPA\* and already possess the content knowledge to teach the subject area(s). To demonstrate knowledge of subject area(s), all individuals (with the exception of those who already possess a graduate degree) will be required to pass the Pre-Professional Skills Test (e.g., reading, writing, and mathematics) for the PRAXIS. Teachers of grades 1-6 (regular and special education) must pass the *Elementary Education Content Knowledge* specialty examination on the PRAXIS (#0014), and teachers of grades 4-8 (regular and special education) must pass the *Middle School Content Knowledge* specialty examination (#0146). Teachers of grades 7-12 (regular and special education) must pass the *specialty examination* on the PRAXIS in the content area(s) (e.g., English, Mathematics, Science, Social Studies, etc.) in which they intend to be certified. (\*Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider.)

3. If admitted to the Practitioner Teacher Program, individuals who intend to be certified to teach grades 1-6, 4-8, or 7-12 must successfully complete nine credit hours (or 135 contact hours) of instruction during the summer prior to the first year of teaching. Practitioner teachers will be exposed to teaching experiences in field-based schools while involved in course work.

4. All practitioner teachers will teach during the regular school year in the area(s) in which they are pursuing certification and participate in nine credit hours (or 135 contact hours) of seminars and supervised internship during the fall and spring to address their immediate needs. Practitioner teachers will be observed and provided feedback about their teaching from the program provider. In addition, practitioner teachers will be supported by school-based mentors from the Louisiana Assistance and Assessment Program and by principals.

5. Practitioner teachers who complete the required course requirements (or equivalent contact hours) with a 2.5 or higher GPA and demonstrate *proficiency* during their first year of teaching can obtain a Level B Professional License

after successfully completing all requirements for the Practitioner Teacher Program (which includes successful completion of the Louisiana Assistance and Assessment Program and passing scores on the PRAXIS) and after completing a total of three years of teaching.

6. Practitioner teachers who successfully complete the required courses (or equivalent contact hours) and demonstrate *weaknesses* during their first year of teaching will be required to complete from one to twelve additional credit hours/equivalent contact hours. A team composed of the program provider, school principal, mentor teacher, and practitioner teacher will determine the types of courses and hours to be completed. The number of hours, which will be based upon the extent of the practitioner teachers' needs, must be successfully completed within the next two years. The team will also determine when the practitioner teachers should be assessed for the Louisiana Assistance and Assessment Program during the next two year time period. Additionally, for teachers who successfully completed the Louisiana Assistance and Assessment Program prior to entering the Practitioner Teacher Program, the team will determine if the Louisiana Components of Effective Teaching are still being exhibited by the teacher at the "competent" level and, if so, allow by unanimous decision

the teacher to be exempted from completing the Assessment part of the Louisiana Assistance and Assessment Program. The practitioner teachers must successfully complete all requirements for the Practitioner Teacher Program (which includes successful completion of the Louisiana Assistance and Assessment Program and passing scores on the PRAXIS in the specialty areas) and must teach for a total of three years before receiving a Level B Professional License.

7. The State's new Teacher Preparation Accountability System will be used to evaluate the effectiveness of all Practitioner Teacher Programs.

**B. Structure for a Practitioner Teacher Program  
Program Providers**

Practitioner Teacher Programs may be developed and administered by universities;

- school districts; and
- other agencies (e.g., Teach for America, Troops for Teachers, Regional Service Centers, etc.).

The same State Teacher Preparation Accountability System will be utilized to assess the effectiveness of the Practitioner Teacher Programs provided by universities, school districts, and other agencies.

**Program Process**

Areas	Course/Contact Hours	Activities	Support
1. Admission to Program (Spring and Early Summer)		<p>Program providers will work with district personnel to identify Practitioner Teacher Program candidates who will be employed by districts during the fall and spring.</p> <p>To be admitted, individuals must</p> <ol style="list-style-type: none"> <li>a. possess a baccalaureate degree from a regionally accredited university.</li> <li>b. have a 2.5 GPA on undergraduate work. (*Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider.)</li> <li>c. pass the Pre-Professional Skills Test (e.g., reading, writing, and mathematics) on the PRAXIS. (Individuals who already possess a graduate degree will be exempted from this requirement.)</li> <li>d. pass the content specific examinations for the PRAXIS:               <ol style="list-style-type: none"> <li>(1) Practitioner candidates for Grades 1-6 (regular and special education): Pass the <i>Elementary Education Content Knowledge (#0014)</i> examination;</li> <li>(2) Practitioner candidates for Grades 4-8 (regular and special education): Pass the <i>Middle School Content Knowledge</i> examination (#0146);</li> <li>(3) Practitioner candidates for Grades 7-12 (regular and special education): Pass the <i>content specialty examination(s)</i> (e.g., English, Mathematics, etc.) on the PRAXIS in the content area(s) in which they intend to teach.</li> </ol> </li> <li>e. meet other non-course requirements established by the program providers</li> </ol>	



B. Structure for a Practitioner Teaching Program (Cont'd)

Program Process (Cont'd)

Areas	Course/Contact Hours	Activities	Support
2. Teaching Preparation (Summer)	9 credit hours or 135 equivalent contact hours (5-8 weeks)	All teachers will participate in field-based experiences in school settings while completing the summer courses (or equivalent contact hours). Grades 1-6, 4-8, and 7-12 practitioner teachers will successfully complete courses (or equivalent contact hours) pertaining to child/adolescent development/psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies before starting their teaching internships. Mild/moderate special education teachers will successfully complete courses (or equivalent contact hours) that focus upon the special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods/materials for mild/moderate exceptional children, and vocational and transition services for students with disabilities.	Program Providers
3. Teaching Intemship and First Year Support (Fall and Spring)	9 credit hours or 135 equivalent contact hours throughout the year. (Note: No fewer than 45 contact hours should occur during the fall.)	Practitioner teachers will assume full-time teaching positions in districts. During the school year, these individuals will participate in two seminars (one seminar during the fall and one seminar during the spring) that address immediate needs of the Practitioner Teacher Program teachers and will receive one-on-one supervision through an internship provided by the program providers. The practitioner teacher will also receive support from school-based mentor teachers (provided by the Louisiana Teacher Assistance and Assessment Program) and principals.	Program Providers, Principals and Mentors
4. Teaching Performance Review (End of First Year)		Program providers, principals, mentors, and practitioner teachers will form teams to review the first year teaching performance of practitioner teachers and to determine the extent to which the practitioner teachers have demonstrated teaching proficiency. If practitioner teachers demonstrate proficiency, they will enter into the assessment portion of the Louisiana Teacher Assistance and Assessment Program during the next fall. (If a practitioner teacher who passed the assessment portion of the Louisiana Teacher Assistance and Assessment Program prior to entering the Practitioner Teacher Program continues to demonstrate the Louisiana Components of Effective Teaching at the "competent" level, the team may, by unanimous decision, exempt the teacher from completing the Assessment part of the Louisiana Assistance and Assessment Program.) If weaknesses are cited, the teams will identify additional types of instruction needed to address the areas of need. Prescriptive plans that require from one to twelve credit hours (or 1-180 equivalent contact hours) of instruction will be developed for practitioner teachers. In addition, the teams will determine whether the practitioner teachers should participate in the new teacher assessment during the fall or whether the practitioner teachers should receive additional mentor support and be assessed after the fall.	

B. Structure for a Practitioner Teaching Program (Cont'd)

Program Process (Cont'd)

Areas	Course/Contact Hours	Activities	Support
5. Prescriptive Plan Implementation (Second Year)	1-12 credit hours (or 15-180 equivalent hours)	Practitioner teachers who demonstrate areas of need will complete prescriptive plans.	Program Providers
6. Louisiana Assessment Program (Second Year)		Practitioner teachers will be assessed during the fall or later depending upon their teaching proficiencies.	Program Providers
7. Praxis Review (Second Year)		Program providers will offer review sessions to prepare practitioner teachers to pass remaining components of the PRAXIS.	Program Providers
8. Certification Requirements (Requirements must be met within a three-year time period. A practitioner teacher's license will not be renewed if all course requirements are not met within these three years.)		Program providers will submit signed statements to the Louisiana Department of Education to indicate that the practitioner teachers completed Practitioner Teacher Programs and met the following requirements within a three-year time period: <ol style="list-style-type: none"> <li>1. passed the PPST components of the PRAXIS. (Note: This test was required for admission.)</li> <li>2. completed the Teaching Preparation and Teaching Internship segments of the program with a 2.5 or higher GPA.</li> <li>3. passed the Louisiana Teacher Assistance and Assessment Program.</li> <li>4. completed prescriptive plans (if weaknesses were demonstrated).</li> <li>5. passed the specialty examination (PRAXIS) for their area(s) of certification. <ol style="list-style-type: none"> <li>a. Grades 1-6: <i>Elementary Education Content Knowledge</i></li> </ol> </li> </ol>	

		<p><i>Examination #014 (Note: This test was required for admission)</i></p> <p>b. Grades 4-8: <i>Middle School Content Knowledge Exam #0146 (Note: This test was required for admission.)</i></p> <p>c. Grades 7-12: <i>Specialty content test in areas to be certified. (Note: This test was required for admission.)</i></p> <p>d. Mild/Moderate Special Education 1-12: <i>Special Education (to be determined)</i></p> <p>6. passed the <i>Principals of Learning and Teaching</i> examination (PRAXIS)</p> <p>a. Grades 1-6: <i>Principles of Learning and Teaching;</i></p> <p>b. Grades 5-9: <i>Principles of Learning and Teaching;</i></p> <p>c. Grades 7-12: <i>Principles of Learning and Teaching.</i></p>	
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B. Structure for a Practitioner Teaching Program (Cont'd)

Program Process (Cont'd)

Areas	Course/ Contact Hours	Activities	Support
9. Ongoing Support (Second and Third Year)		Program providers will provide support services to practitioner teachers during their second and third years of teaching. Types of support may include on-line support, Internet resources, special seminars, etc.	Program Providers
10. Professional License (Practitioner License to Type B)		Practitioner teachers will be issued a Practitioner License when they enter the program. They will be issued a Type C Professional License once they have successfully completed all requirements of the program; after three years of teaching they will be eligible for a Type B license.	

**Undergraduate/Graduate Courses and Graduate Programs**

Universities may offer the courses at undergraduate or graduate levels. Efforts should be made to allow students to use graduate hours as electives if the students are pursuing a graduate degree.

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Interested persons may submit comments until 4:30 p.m., February 8, 2002, 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 746C Louisiana Standards for State Certification of School PersonnelC Practioner Teacher Program/NTE Scores**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

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)**

This policy provides for a streamlined alternate certification option that allows individuals to become certified with a Type B certificate after three years of full-time teaching and combined coursework, if they demonstrated required content knowledge, instructional expertise, and classroom management skills.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This policy should result in an increase in the number of certified teachers available to teach grades K-12 in Louisiana.

Marlyn J. Langley  
Deputy Superintendent  
Management and Finance  
0112#022

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC PRAXIS/NTE Scores (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. To address the new certification structure that becomes effective in 2002, this policy provides required scores on exams that will serve as admission and exit requirements for teacher certification programs. Two of the added examinations specifically address middle school (grades 4-8), a new certification category. This policy adopts the required scores on three PRAXIS examinations which have been added to the list of NTE/PRAXIS examinations required for teacher certification, as follows: #0014C Elementary Education: Content Knowledge, with a passing score of 147; #0146—Middle School: Content Knowledge, with a passing score of 150; and #0523—Principles of Learning and Teaching 5-9, with a passing score of 154.

**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 RS. 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 in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825-827 (June 2001), LR 27:827-828 (June 2001), LR 27:828-829 (June 2001).

**PRAXIS/NTE Scores**

**Minimum Score Requirements for Certification in Louisiana, Effective 9/1/99**

(See next page for NTE tests/scores required for Louisiana certification prior to 9/1/99)<sup>1</sup>

Area Test	Area Score	Pre-Professional Skills Test			Principles of Learning & Teaching			
		PPST:R <sup>2</sup>	PPST:W <sup>2</sup>	PPST:M <sup>2</sup>	PLT K-6	PLT 5-9 <sup>4</sup>	OR	PLT 7-12
Administration and Supervision (0410)	620	---	---	---	---	---		---
Agriculture <sup>3</sup>	---	172	171	170	---	---		161
Art Education <sup>3</sup>	---	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/Gen. Science (0070)	530	172	171	170				161
Early Childhood Education (0020)	510	172	171	170	161	---		---
Elementary Education: Curriculum, Instruction, & Assessment (0011)	156	172	171	170	161	---		---
Content Area Exercises (0012)	137							
Elementary Education: Content Knowledge (0014) <sup>4</sup>	147	172	171	170	161	---		---
Middle School: Content: Knowledge (0146) <sup>4</sup>	150	172	171	170	---	154		---
English Language, Literature, & Composition: Content Knowledge (0041)	160	172	171	170	---	---		161
Pedagogy (0043)	130							
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 <sup>3</sup>	---	172	171	170	---	---		161
Mathematics (0060)	550	172	171	170	---	---		161
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)	149	172	171	170	---	---		161
Interpretation of Materials (0083)	152							
Spanish (0190)	540	172	171	170	---	---		161
Special Education <sup>3</sup>	---	172	171	170	161	154	or	161
Speech Communications <sup>3</sup>	---	172	171	170	---	---		161

<sup>1</sup> Individuals who achieved the required NTE score(s) may use those in lieu of the replacement PRAXIS test.

<sup>2</sup> Computer-Based Tests are available as an option.

<sup>3</sup> Area test is not required for certification in Louisiana.

<sup>4</sup> Exam approved 1025/01.

PPST:R <sup>2</sup> – Pre-Professional Skills Test: Reading (0710) PPST:W <sup>2</sup> – Pre-Professional Skills Test: Writing (0720) PPST:M <sup>2</sup> – Pre-Professional Skills Test: Mathematics (0730) PLT K-6 – Principles of Learning & Teaching K-6 (0522) PLT 5-9 <sup>4</sup> – Principles of Learning & Teaching 5-9 (0523) PLT 7-12 – Principals of Learning & Teaching 7-12 (0524)
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Computer-Based Tests:	
CBT Reading (0711)	319
CBT Writing (0721)	316
CBT Mathematics (0731)	315

All newly-adopted Praxis scores used for certification must be sent directly from ETS to the State Department of Education,  
either through tape transmission or hard copy score reports, effective September 1, 1999.

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)

\* \* \*

Interested persons may submit comments until 4:30 p.m., February 8, 2002, 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 746C-Louisiana Standards  
for State Certification of School  
Personnel/PRAXIS/NTE Scores**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
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)

This policy provides for the addition of three PRAXIS examinations to the list of required examinations for teacher certification in Louisiana, as follows: #0014—Elementary Education: Content Knowledge, with a passing score of 147; #0146—Middle School: Content Knowledge, with a passing score of 150; and #0523—Principles of Learning and Teaching 5-9, with a passing score of 154. This represents no additional cost to certification applicants, who have historically been required to pass PRAXIS examinations as a requirement for certification.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The newly validated examinations will serve as admission and exit requirements for Louisiana's redesigned certification structure. Two of the examinations that have been added specifically address the new certification category of middle school (grades 4-8). The policy will have no effect on competition and employment

Marlyn J. Langley  
Deputy Superintendent  
Management and Finance  
0112#021

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State  
Certification of School PersonnelC Supervisor  
of Student Teaching (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. This Bulletin 746 policy removes the necessity for formally adding a certification endorsement for "Supervisor of Student Teaching." Instead, a teacher can qualify to act as a supervisor of student teaching under one of three conditions: (1) a valid Type A Louisiana certificate in the field of supervisory assignment; (2) a valid Type B Louisiana certification in the field of the supervisory assignment and successful completion of a three-credit-hour course in the supervision of student teaching; or (3) a valid Type B Louisiana certificate in the field of the supervisory assignment and successful completion of assessor training through the Louisiana Teacher Assistance and Assessment Program. This action will allow Louisiana teacher education programs more flexibility in assigning student teachers to a qualified supervisor in the field.

#### 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 in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825-827 (June 2001), LR 27:827-828 (June 2001), LR 27:828-829 (June 2001), LR 28:

##### Supervisor of Student Teaching Policy

A classroom teacher can serve as a supervisor of student teaching if he/she satisfies any one of the following conditions:

1. a valid Type A Louisiana certificate in the field of the supervisory assignment;
2. a valid Type B Louisiana certificate in the field of the supervisory assignment and successful completion of the three-credit-hour course in the supervision of student teaching; or
3. a valid Type B Louisiana certificate in the field of the supervisory assignment and successful completion of assessor training through the Louisiana Teacher Assistance and Assessment Program.

\* \* \*

Interested persons may submit comments until 4:30 p.m., February 8, 2002, 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 746C Louisiana Standards for State Certification of School PersonnelC Supervisor of Student Teaching

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

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)

This Bulletin 746 policy removes the necessity for formally adding a certification endorsement for "Supervisor of Student Teaching." Instead, a teacher can qualify to perform the duties of a supervisor or student teaching under any one of three stated conditions: (1) a valid Type A Louisiana certificate in the field of the supervisory assignment; (2) a valid Type B Louisiana certification in the field of the supervisory assignment and successful completion of a three-credit-hour course in the supervision of student teaching; or (3) a valid Type B Louisiana certificate in the field of the supervisory assignment and successful completion of assessor training through the Louisiana Teacher Assistance and Assessment Program. This represents a reduction in certification costs, providing that one can perform the supervisory duties without formally adding an endorsement to a teaching certificate, and an increased opportunity for teachers currently in the workforce to earn supplemental income.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The policy will have no effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
Management and Finance  
0112#020

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 1891C Louisiana's IEP Handbook for  
Gifted/Talented Students (LAC 28:LV.Chapters 1-11)

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 1891, *Louisiana's IEP Handbook for Gifted/Talented Students* (R.S. 17:1941, et seq.). The present revision is being published in codified form; hence historical notes will reflect a history, by section, from this time forward.

*Louisiana's IEP Handbook for Gifted/Talented Students* are the regulations for developing the Gifted/Talented

Individualized Education Plan (IEP) for identified Gifted/Talented students in the school districts. Regulations regarding the types of IEPs, timelines, participants, school district responsibilities, and due process procedures are included. The development of *Louisiana's IEP Handbook for Gifted/Talented Students* is the result of the adoption of *Regulations for Implementation of Children with Exceptionalities Act, Subpart B, Regulations for Gifted/Talented Students* in August 2000 which separated the regulations for the disabled from the regulations for the gifted/talented.

**Title 28  
EDUCATION**

**Part LV. Bulletin 1891C Louisiana's IEP Handbook for  
Gifted/Talented Students**

**Chapter 1. Purpose**

**§101. Introduction**

A. *Louisiana's IEP Handbook for Gifted/Talented Students*, revised 2001, provides information regarding the Individualized Education Program (IEP), the basis for educational programming for G/T students in Louisiana. The handbook describes the IEP process and the legal procedures involved as mandated by Revised Statute 17:1941, et seq., and its regulations. This handbook outlines mandatory procedures. It serves as a training vehicle for interested parties in the effort to improve the quality of Gifted/Talented IEPs in Louisiana.

B. A separate IEP form described in the handbook must be used for all students identified as gifted and talented, with the exception of students, gifted and/or talented who have an identified disability.

C. Any student with a disability as identified in the *Pupil Appraisal Handbook* and identified as gifted/talented will use the IEP for students with a disability to develop his/her individualized 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 28:

**Chapter 3. Types of IEPs**

**§301. The IEP and evaluation/re-evaluation of G/T students.**

A. The IEP process is one intertwined with the process of evaluation and re-evaluation of G/T 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 28:

**§303. The Four Types of IEPs**

A. The INTERIM IEP may be developed for students who have been receiving special educational services in another state concurrent with the conduct of an evaluation. An interim IEP may also be developed for students out of school, to age 22, who have left a public school before obtaining a state diploma.

B. The INITIAL IEP is developed for a G/T student who has met criteria for one or more exceptionalities outlined in the *Pupil Appraisal Handbook* and who has never received special educational services, except through an interim IEP, from an approved Louisiana school/program.

C. The REVIEW IEP is reviewed and revised at least annually or more frequently to consider the appropriateness

of the program, placement, and any related services needed by the student.

D. The DECLASSIFIED IEP is developed when a student's reevaluation determines the student is no longer exceptional. This IEP allows the student to receive special educational services for up to one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

**Chapter 5. Initial IEP Development  
§501. Responsibilities**

A. A student is initially determined to be exceptional through the individual evaluation process. The responsibility for making a formal commitment of resources to ensure a free, appropriate public education (FAPE) for a student identified as exceptional rests with the local education agency (LEA) in which the student resides. Note: Louisiana Revised Statute 17:1941 et seq., clearly indicates that while the local educational agency must locate and identify all students who meet the criteria for gifted/talented, the LEA is not responsible for providing FAPE to gifted/talented students whose parents have voluntarily enrolled the student in a private school.

B. The LEA is responsible for initiating the assurance of FAPE regardless of whether the system will:

1. provide all of the service directly or through interagency agreements;
2. place the student in another system or in a nonpublic facility; or
3. refer the student to another LEA for educational purposes.

C. The responsibility for offering FAPE is met through the process of developing an initial IEP. This process includes:

1. communication between the LEA and the parents;
2. IEP meeting(s) at which parents and school personnel make joint decisions and resolve any differences about the student's needs and services;
3. a completed IEP/placement document, which describes the decisions made during the meeting(s), including special education and related services that are to be provided;
4. a formal assurance by the LEA that the services described in the document will be provided;
5. parental consent for initial placement;
6. procedural safeguards for differences that cannot be resolved mutually; and
7. initial placement and provision of services as described in the IEP/placement.

D. The LEA is required to offer FAPE to those G/T students whose ages fall between 3 and 21 years.

1. The responsibility for providing services to a G/T student continues until:

- a. the student receives a State diploma; or
- b. the student reaches his or her twenty-second birthday. (If the twenty-second birthday occurs during the course of the regular school session, the student shall be allowed to remain in school for the remainder of the school year.

2. The LEA is not responsible for providing FAPE if, after carefully documenting that the agency has offered

FAPE via an IEP, the parents choose to enroll the student voluntarily elsewhere or indicate their refusal of special educational services. Documentation of these parental decisions should be kept on file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### §503. Timelines

A. An initial evaluation is considered "completed" when the written report has been disseminated by the pupil appraisal staff to the administrator of special education programs. A LEA has a maximum of 30 calendar days after the completion of the evaluation to complete the IEP/placement document for an eligible student. During this time, two activities must take place and be documented.

1. Written Notice(s) that the LEA proposes to provide FAPE through the IEP process must be given to the parents. The notice(s) must be provided in the parents' native language or must be given using other means of communication, whenever necessary, to assure parental understanding.

2. The notice(s) must indicate the purpose, time, and location of the IEP meeting; who will be in attendance; the parents' right to take other participants to the meeting; the student's right to participate (when appropriate); and the name of the person in the LEA the parents can contact if and when they have questions or concerns.

3. The notice(s) must explain the procedural safeguards available to the parents: that they can negotiate the time and place of the IEP meeting, that they have the right to full and meaningful participation in the IEP decision-making process, that their consent is required before initial placement will be made, and that all information about the student shall be kept confidential.

4. Additionally, if the LEA has not already done so, the system must inform the parents of their right to an oral explanation of the evaluation report and of their right to an independent education evaluation (IEE) if the parents disagree with the current evaluation.

B. An IEP meeting(s) that results in a completed IEP/placement document must be held. The IEP meeting(s) should be a vehicle for communication between parents and school personnel to share formal and informal information about the student's needs, educational projections, and services that will be provided to meet the student's needs. The completed IEP/placement document is a formal record of the IEP team's decisions. The timeline for completion of the document is intended to ensure that there is no undue delay in providing a free, appropriate public education (FAPE) for the student. The document is "completed" when the form has been completed and signed by the LEA's officially designated representative.

#### Additional Notes About Timelines

Summer Recess. When an initial evaluation report has been completed within the 30 days prior to the summer recess or during the recess, the LEA may request, through written documentation, parental approval to delay the initial IEP meeting until the first week of the next school session. However, if the parents wish to meet during the summer recess, the LEA must ensure that the appropriate IEP team members are present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### §505. Participants

A. At any initial IEP meeting, the following participants must be in attendance: an officially designated representative of the LEA, the student's regular education and special education teachers, the student's parent(s), and a person knowledgeable about the student's evaluation procedures and results. The student, as well as other individuals the parents and/or LEA may deem necessary, should be given the opportunity to attend. Documentation of attendance is required.

1. An officially designated representative of the LEA (ODR) is one who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of G/T students, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the LEA. The LEA may designate another LEA member of the IEP team to serve also as the agency representative, if the above criteria are satisfied. A special education teacher cannot serve as the ODR for a child's IEP if he/she is also the child's teacher. A LEA must have on file and must disseminate within the agency a policy statement naming the kinds of persons who may act as the official representative of the LEA. Representatives may include the director/supervisor of special education, principals, instructional strategists, teachers, or any other LEA employee certified to provide or supervise special educational services. A member of the student's evaluation team may serve in this capacity.

2. Parents are equal participants in the IEP process in discussing the educational and related services needs of the student and deciding which placement and other services are appropriate. As such, one or both of the student's parents should participate in the initial IEP/placement meeting(s). Other team members must rely on parents' to contribute their perspective of the student outside of school. Parental insight about the student's strengths and support needs, learning style, temperament, and ability to work in various environments is of vital importance to the team in making decisions about the student's needs and services. The concerns of the parents for enhancing the education of their child must be documented in the IEP.

NOTE 1: *Parent* is defined as a natural or adoptive parent of a child; a guardian, but not the State if the child is ward of the State; a person acting in the place of a parent of a child (such as a grandparent or stepparent with whom the child lives or a person who is legally responsible for the child's welfare); or a surrogate parent who has been appointed. A foster parent may qualify as a "parent" when the natural parents' authority to make educational decisions on the child's behalf has been extinguished under State law, and the foster parent has an ongoing, long-term parental relationship with the child; is willing to participate in making educational decisions in the child's behalf; and has no interest that would conflict with the interests of the child.

B. The LEA must take measures to ensure that parents and all other team members, including sensorially impaired and non-English-speaking participants, can understand and actively participate in discussions and decision-making. These measures (i.e., having an interpreter or translator) should be documented. Local education agencies shall further ensure that, for those parents who cannot physically attend the IEP meeting(s), every effort is made to secure parental participation. After documenting attempts to arrange

a mutually convenient time and place, several possibilities remain.

1. The meeting(s) may be conducted via telephone conference calls.

2. The IEP team may consider parental correspondence to the school regarding the student's learning environment, any notes from previous parental conferences, and any data gathered during the screening and evaluation period.

3. Visits may be made to the parents' home or place of employment to receive parental suggestions.

4. If, however, every documented attempt fails and the IEP/placement document is developed without parental participation, the parents still must give written informed consent for initial placement before any special education services may begin.

NOTE 2: When a G/T student has a legal guardian or has been assigned a surrogate parent by the LEA, that person assumes the role of the parent during the IEP process in matters dealing with special educational services. When a G/T student is emancipated, parental participation is not mandated. Additionally, if the LEA has been informed that a parent is legally prohibited from reviewing a student's records, that parent may not attend the IEP meeting(s) without permission of the legal guardian.

NOTE 3: Beginning at least one year before the student reaches the age of majority, the parents will be informed that the rights under state statute will transfer to the student.

C. An evaluation representative is a required participant at an initial IEP meeting. The person may be a member of the pupil appraisal team that performed the evaluation or any person knowledgeable about and able to interpret the evaluation data for that particular student.

D. A regular education teacher is at least one of the student's regular teachers (if the student is, or may be, participating in the regular education environment). The teacher must, to the extent appropriate, participate in the development, review, and revision of the student's IEP.

1. Thus, while a regular education teacher must be a member of the IEP team if the child is, or may be, participating in the regular education environment, the teacher need not (depending upon the child's needs and the purpose of the specific IEP team meeting) be required to participate in all decisions made as part of the meeting or to be present throughout the entire meeting or attend every meeting. For example, the regular education teacher who is a member of the IEP team must participate in discussions and decisions about how to modify the general curriculum in the regular classroom to ensure the child's involvement and progress in the general curriculum and participation in the regular education environment.

E. A special education teacher is at least one of the student's special education teachers, or when appropriate, at least one special education provider of the student.

F. The student should be given the opportunity to participate in the development of the IEP. In many cases, the student will share responsibility for goals and objectives.

1. Beginning at least one year before the student reaches the age of majority, by the student's seventeenth birthday, the student must be informed that his or her rights under state statute will transfer to him or her.

G. Other individuals may be invited, at the discretion of the parent or LEA, who have knowledge or special expertise regarding the student, including related service personnel as

appropriate. The LEA also must inform the parents of the right of both the parents and the agency to invite other individuals who have knowledge or special expertise regarding the child, including related service personnel as appropriate to be members of the IEP team. The LEA may recommend the participation of other persons when their involvement will assist the decision-making process.

1. It is also appropriate for the LEA to ask the parents to inform the LEA of any individuals the parents will be taking to the meeting. Parents are encouraged to let the LEA know whom they intend to take. Such cooperation can facilitate arrangements for the meeting and help ensure a productive, child-centered meeting.

NOTE: The determination of the knowledge or special expertise of any individual described above shall be made by the parent or LEA, whoever invited the individual to be a member of the IEP team.

H. When the LEA responsible for the initial IEP/placement process considers referring or placing the student in another LEA, the responsible LEA must ensure the participation of a representative of the receiving system at the IEP meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

#### **§507. Placement Decisions**

A. The IEP team has the responsibility for determining the special education needs and placement for a G/T student. Program decisions must be made and written on the IEP in the following areas that form the basis for the placement:

1. the student's strengths and support needs;
2. the concerns of the parents for enhancing the education of their child;
3. the results of the initial evaluation or most recent reevaluation of the student;
4. as appropriate, the results of the student's performance on any general state or district-wide assessment program;
5. the student's present levels of educational performance;
6. in the case of a student with limited English proficiency, whose language needs relate to the student's IEP;
7. the measurable annual goals, including benchmarks or short-term objectives, related to:
  - a. meeting the student's needs that result from the student's exceptionality and progress in an accelerated and enriched curriculum;
  - b. meeting each of the student's other educational needs that result from the student's exceptionality; and
  - c. appropriate activities for the preschool-aged student;
8. a statement of related services and program modifications for school personnel that will allow the student to advance appropriately toward the annual goals;
9. the explanation of the extent, if any, to which the student will not participate with students in the regular class and extracurricular and other nonacademic activities;
10. any individual modifications and/or accommodations in the administration of State or district-wide assessments of student achievement that are needed in



order for the student to participate in the assessment as documented by an attached Section 504 Plan;

11. and the anticipated frequency, location, and duration of the special education services and modifications.

B. The IEP team, following a discussion of the student's educational needs, must choose a setting(s) in which the educational needs will be addressed. The term placement refers to the setting or class in which the student will receive special educational services.

C. Placement decisions for students whose ages are 6-21. For the location of instruction/ services, IEP team members should consider the following.

1. Where would the student attend school if he or she did not have an exceptionality?

2. Based on IEP goals and objectives or benchmarks, what the instructional setting(s) would support the achievement of these goals and objectives or benchmarks?

D. For students aged 6-21. Utilizing the above information, the IEP team should choose the most appropriate setting from the continuum below:

1. regular classroom (less than 21 percent of the day outside the regular class);

2. resource with regular classes (at least 21 percent, but no more than 60 percent of the day outside the regular class);

3. self-contained class on a regular campus (more than 60 percent of the day outside the regular class.

E. For students aged 3-5. In determining the appropriate setting for a preschool-aged student, each noted setting must be considered; but the list should not be considered a continuum of least restrictive environment. The settings for preschool-aged students, three through five years, are defined as follows.

1. Regular Preschool Placement/Head Start, Title 1, kindergarten, pre-kindergarten, child care center, Even Start, 4 year-old at-risk program, or any other program designed for children.

2. Self-Contained/CA preschool class, or any other program designed for exceptional children.

F. The official designated representative shall be knowledgeable about placement considerations and shall be responsible for informing the IEP team members. The IEP team must participate in decisions made about the placement; however, the LEA has the right to select the actual school site in view of committee decisions.

NOTE: See Section 2 for the complete instructions for writing the IEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### **§509. Additional Clarification**

A. Although throughout Louisiana most exceptional students are served in their neighborhood schools, there are some extenuating circumstances that impact the decision to serve a student in a school other than his or her neighborhood school.

B. The following is provided as an example: A Resource Center for Gifted/Talented is a type of instructional setting, designed or located in one school, that provides instructional services to students who are gifted/talented from two or more schools and in which special education is provided by an individual certified in accordance with *Bulletin 746*;

pupil/teacher ratios established in *Bulletin 1706 G/T* are used; instructional time is not less than two and one-half hours per week.

C. In addition to the questions on the IEP and Site Determination Form, the following issues must be considered:

1. students should be placed in programs on the basis of their unique needs;

2. placement cannot be based on either a particular local education agency's special education delivery system or on the availability of related 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 28:

### **§511. Related Services Decisions**

A. If an identified gifted/talented student needs related services including transportation, or counseling, then the IEP should address these concerns on the IEP 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 28:

### **§513. Accommodations/Modifications for LEAP**

#### **Testing**

A. G/T students shall be included in the Louisiana Educational Assessment Program with appropriate accommodations and modifications in administration. These accommodations and modifications should be incorporated in the student's educational program throughout the year. The Section 504 Plans should be attached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### **§515. Parental Consent**

A. A LEA must obtain formal parental consent before it can initially provide a student with special education in any setting. Consent includes the following:

1. the parent and/or student has been fully informed of all relevant information in a manner that is clearly understandable to the parent and/or student; and

2. the parent and/or student formally agree/agrees in writing.

B. After the parent and/or student have/has given written consent, the IEP is in effect. The parent and/or student must be provided a completed copy of the IEP/placement document signed by the official designated representative of the LEA.

NOTE: The student's consent is needed once the student reaches the "age of majority."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### **§517. Parental Withholding of Consent**

A. Parents may disagree with all or some part(s) of the initial program, placement, or related services proposals. The LEA and the parents should make conciliatory attempts to resolve the disputes, including making modifications to the proposed program, placement, and related services. A LEA may not use a parent's refusal to consent to one service or activity to deny the parent or student any other service, benefit, or activity of the LEA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### §519. Mediation

A. Mediation is an informal, voluntary process by which the parent and the LEA are given an opportunity, through the help of a trained mediator, to resolve their differences and find solutions to enhance the overall learning environment for the student. Differences may arise in the planning and implementing of programs for exceptional students. It is important for parents and LEAs to have an opportunity to present their viewpoint in a dispute.

NOTE: See Louisiana's Educational Rights of Gifted/Talented Children in Public Schools and the Mediation Services for Students with Exceptionalities brochure for more information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### §521. Due Process

A. The parents and the LEA both have the right to an "impartial due process hearing" when disagreements arise between the parent and the LEA relative to initiating or changing the identification, evaluation, or educational placement of a student with an exceptionality. Due process hearings may be initiated by the parent or the LEA.

B. See Louisiana's Rights of Gifted/Talented Children in Public Schools and the Mediation Services for Students with Exceptionalities brochure for more information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### §523. Implementation of the IEP

A. Implementation of the IEP means that the student begins participating in the special education placement and related services as written on the IEP/placement document. A LEA must begin providing services as stated on the IEP within 10 calendar days. The date of initiation of services shall be noted on the IEP. When meetings occur during the summer or other vacation periods, a delay may occur. When meetings to develop the initial IEP/placement document occur just prior to the summer vacation, the date of implementation of services may be delayed to the beginning of the next school year if the parent(s) agree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

## Chapter 7. Review IEP Development

### §701. Responsibilities and Timelines

A. A LEA is required to initiate and conduct IEP meetings periodically, but not less than annually, to review each student's IEP in order to determine whether the annual goals for the student are being achieved and to revise the IEP as appropriate. The LEA must notify parents of the review IEP meeting or the review/reevaluation IEP meeting in accordance with the same procedures as the initial IEP.

B. An additional IEP/placement review meeting is not required when a LEA elects to move the student to another school site within the agency when all of the information on the IEP remains the same and the effect of the program has not been changed.

C. The IEP team should:

1. review the student's progress toward achieving the annual goals and objectives/benchmarks;
2. review the student's progress in the general education curriculum;
3. discuss any lack of expected progress toward the annual goals and in the general education curriculum;
4. review the results of the student's performance on any State or district-wide assessment;
5. review the results of any reevaluation;
6. review information about the child provided to, or by, the parents;
7. discuss the student's anticipated needs;
8. review the student's special educational needs; for the preschool-aged child, address his or her developmental needs;
9. make updated decisions about the student's program and placement;
10. in making decisions for location of instruction/services, refer to pages 12-14 of this handbook for guidance;
11. any other concerns.

D. A review meeting must be conducted in addition to the required annual review when:

1. a student's teacher feels the student's IEP or placement is not appropriate for the student; or
2. the student's parents believe their child is not progressing satisfactorily or that there is a problem with the student's IEP; or
3. the LEA proposes any changes regarding program or placement, such as to modify, add, or delete a goal or objective; to add or delete a related service; or
4. either a parent or a public agency believes that a required component of the student's IEP should be changed; or
5. the LEA must conduct an IEP meeting if it believes that a change in the IEP may be necessary to ensure the provision of FAPE; or
6. a hearing officer orders a review of the student's IEP/placement document;
7. an out-of-district placement or referral is being proposed.

NOTE: A review IEP meeting must be conducted as part of the reevaluation process.

E. In the cases listed above, it may not be necessary to rewrite the entire IEP/placement document. However, the following documentation must be provided:

1. signatures of the team members;
2. the date of the meeting;
3. the changes made in the IEP; and
4. the dated signatures of the official designated representative of the system and the parent who authorized the change.

F. In the case in which the IEP/placement document is entirely rewritten, the date of that meeting shall become the anniversary date for the next annual review meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### §703. Participants

A. The LEA must ensure there is attendance by an officially designated representative of the system, the

student's regular education and special education teachers, the parents, and the student, as appropriate. At the discretion of the parent(s) or the LEA, other individuals who have knowledge or special expertise regarding the student may attend. A representative of another LEA or approved facility may be included if a placement in or referral to another LEA is proposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

#### **§705. Placement Decisions**

A. The IEP team must address the placement of the student according to the same placement guidelines required for an initial IEP meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### **Chapter 9. Declassified IEP Development**

#### **§901. Responsibilities and Timelines**

A. Following the receipt of a re-evaluation that indicates no exceptionality for a student currently enrolled in special education, the LEA has two options. The LEA may:

1. place the child in regular education after obtaining formal parental approval; or
2. recommend a declassified special education program.

B. When the declassified program is chosen, an IEP meeting must be held and conducted in accordance with all the guidelines required for a review meeting. This IEP may be in effect for up to one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

#### **§903. Placement Decisions**

A. The declassified IEP provides the student with a systematic, structured program for moving into regular education. The declassified program shall include regular education in combination with special educational services. The IEP team should discuss and document on the IEP the systematic plan for the student's full integration into regular classes by the end of the specified time. This plan may be documented by indicating a decreasing range of time in special classes during the year and/or by writing goals and objectives that indicate a gradually reduced special support system for the student. Such documentation will remove the necessity to reconvene the IEP team during the year as the placement gradually changes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

### **Chapter 11. Interim IEP Development**

#### **§1101. Responsibilities and Timelines**

A. The interim IEP provides a basis on which the student may begin to receive special educational and related services and provides an appraisal program to gather assessment data for the individual evaluation process.

B. A student must be offered enrollment in a LEA. This enrollment process, from initial entry into the LEA to placement, shall occur within 10 school days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

#### **§1103. Placement Decisions**

A. Local supervisors of special education may approve enrollment in special education after existing student information has been reviewed by pupil appraisal personnel. An interim IEP would be developed and formal parental approval obtained. The interim IEP remains in effect as long as the evaluation is in process and may be revised as necessary. During this time all regulations pertaining to gifted/talented students shall apply. The interim IEP shall not exceed the duration of the evaluation.

B. Often, discussion about the current performance, goals, and objectives for the student will have to be conducted without the benefit of integrated assessment data or teacher observation.

C. To gather information about current performance, the parent may be the prime source of information about the student's skills, development, motivation, learning style, etc.

D. The goals and objectives should address the student's educational program during the assessment process.

E. When available information indicates that related services are required, services should be provided.

F. The student's performance during an interim placement must be documented by the teacher and pupil appraisal personnel. This documentation should provide meaningful data for determining an appropriate program and placement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

#### **§1105. Parental Consent**

A. Parental consent for the interim placement and related services must be obtained by parental signature on the IEP form.

B. Parents should be informed that the student will exit from the special educational program if the student is found to be ineligible for special educational services according to the criteria of the Pupil Appraisal Handbook.

C. If the student is eligible for special educational services, an initial IEP/placement meeting will be conducted within 30 calendar days from the date of dissemination of the written evaluation to the LEA's special education administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Interested persons may submit written comments until 4:30 p.m., February 8, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1891C Louisiana's IEP  
Handbook for Gifted/Talented Students**

- 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 will be approximately \$400 from state funds.
- 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 government.
- 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. This document has never been codified. This is a revised, updated document which will replace the document in use prior to the separation of the regulations for the disabled and for the gifted/talented students.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition or employment.

Marlyn Langley  
Deputy Superintendent  
Management and Finance  
0112#023

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Dissolved Oxygen Criteria for Beaucoup Creek,  
Middle Fork Bayou D'Arbonne,  
Bayou Cocodrie, and Cocodrie Lake  
(LAC 33:IX.1123)(WQ042)

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.1123.C.3.Table 3 (Log #WQ042).

The numerical dissolved oxygen criteria for two Water Quality Management Subsegments in the Ouachita Basin (Beaucoup Creek, 081503, and Middle Fork Bayou D'Arbonne, 080610) and two subsegments in the Vermillion-Teche Basin (Bayou Cocodrie, 060201, and Cocodrie Lake, 060102) are being revised. Use Attainability Analyses of these subsegments have determined that naturally dystrophic critical periods for dissolved oxygen occur during parts of

each year. While these water bodies exhibit naturally occurring seasonal variations in dissolved oxygen, no changes in designated uses are proposed. As part of the Louisiana Water Quality Management Plan, the State publishes a list of priority water bodies biennially under the Clean Water Act Section 305(b). In accordance with the Clean Water Act Section 303(d), water bodies are placed on a list of priority water bodies when assessment methodology indicates that they do not meet applicable water quality standards. After further review and assessment, some of these water bodies may be prioritized for fieldwork, Use Attainability Analyses, and Total Maximum Daily Load development. Until a Use Attainability Analysis is conducted to determine attainable uses and criteria, a Total Maximum Daily Load based upon national criteria may be inappropriate for many water bodies. Beaucoup Creek (081503), Middle Fork Bayou D'Arbonne (080610), Bayou Cocodrie (060201), and Cocodrie Lake (060102) have been classified as the highest priority on Louisiana's 303(d) list. Use Attainability Analyses have been conducted for these water bodies to determine the appropriate dissolved oxygen criteria. The Use Attainability Analyses present the required information for site-specific dissolved oxygen water quality standards revisions in accordance with state and federal water quality regulations, policies, and guidance. The basis and rationale for this Rule are to establish site-specific criteria for these subsegments developed as a result of the Use Attainability Analyses conducted for the sites.

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**

**Chapter 11. Surface Water Quality Standards**

**§1123. Numerical Criteria and Designated Uses**

\* \* \*

[See Prior Text In 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."

- AC Primary Contact Recreation
- BC Secondary Contact Recreation
- CC Propagation of Fish and Wildlife
- LC Limited Aquatic Life and Wildlife Use
- DC Drinking Water Supply
- EC Oyster Propagation
- FC Agriculture
- GC 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**

AC Primary Contact Recreation;  
BC Secondary Contact Recreation;  
CC Propagation Of Fish And Wildlife;  
DC Drinking Water Supply;

EC Oyster Propagation;  
FC Agriculture;  
GC Outstanding Natural Resource Waters;  
LC Limited Aquatic Life And Wildlife Use

Code	Stream Description	Designated Uses	Criteria						
			CI	SO <sub>4</sub>	DO	pH	BAC	C	TDS
Atchafalaya River Basin (01)									
*** [See Prior Text In 010101 – 050901]									
Vermilion-Teche River Basin (06)									
*** [See Prior Text In 060101]									
060102	Cocodrie Lake	A B C	10	5	<sup>[19]</sup>	6.0-8.5	1	32	100
060201	Bayou Cocodrie from U.S. Hwy. 167 to the Bayou Boeuf Cocodrie Diversion Canal (Scenic)	A B C G	45	35	<sup>[19]</sup>	6.0-8.5	1	32	100
*** [See Prior Text In 060202 – 070601]									
Ouachita River Basin (08)									
*** [See Prior Text In 080101-080609]									
080610	Middle Fork of Bayou D'Arbonne from origin to Bayou D'Arbonne Lake (Scenic)	A B C G	50	15	<sup>[20]</sup>	6.0-8.5	1	32	200
*** [See Prior Text In 080701 – 081502]									
081503	Beaucoup Creek Headwaters to Castor Creek	A B C	25	25	<sup>[21]</sup>	6.0-8.5	1	32	100
*** [See Prior Text In 081504-120806]									

Endnotes:

\*\*\*  
[See Prior Text In [1] – [18](c)]  
<sup>[19]</sup> Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5 mg/l November-March, 3.5 mg/l April-October.  
<sup>[20]</sup> Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5 mg/l October-June, 3 mg/l July-September.  
<sup>[21]</sup> Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5 mg/l October-June, 2.5 mg/l July-September.

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 22:1123 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2401 (December 1999), LR 27:289 (March 2001), LR 28:

A public hearing will be held on January 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed Amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed Regulations. Persons commenting should reference this proposed Regulation by WQ042. Such comments must be received no later than January 31, 2002, at 4:30 p.m., and should be sent to Patsy

Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389. Copies of this proposed Regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of WQ042.

This proposed Regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m. at 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Dissolved Oxygen Criteria for  
Beaucoup Creek, Middle Fork Bayou D'Arbonne,  
Bayou Cocodrie, and Cocodrie Lake  
(WQ042)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No significant effect of this proposed Rule on state or local governmental expenditures is expected.

- 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 and employment is anticipated.

James H. Brent, Ph.D.  
Assistant Secretary  
0112#070

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

### NOTICE OF INTENT

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

#### Locking of Sources of Radiation (LAC 33:XV.541)(RP028\*)

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.541 (Log #RP028\*).

This proposed rule is identical to federal regulations found in 62 FR 28948, May 28, 1997, and 10 CFR 34.23, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Section is critical to the safe operation of radiation equipment. It describes procedures for the locking of sources of radiation when not in use to prevent unauthorized or accidental production of radiation or removal or exposure of a sealed source. LAC 33:XV.541 is required for Nuclear Regulatory Commission (NRC)-state compatibility purposes. In final rule RP027\*, published in the August 20, 2001, *Louisiana Register*, this Section was inadvertently removed and replaced with the incorrect federal language. This proposed rule reinstates the correct language. The basis and rationale for this rule are to maintain compatibility with the NRC and to provide procedures for the securing of sealed sources of radiation.

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 5. Radiation Safety Requirements for Industrial Radiographic Operations

##### §541. Locking of Sources of Radiation

A. Each radiographic exposure device must have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The exposure device and/or its container must be kept locked, with the key removed at all times for a keyed-lock, when not under the direct surveillance of a radiographer, a radiographer's assistant, or a trainee except at permanent radiographic installations in accordance with LAC 33:XV.585. In addition, during radiographic operations the sealed source assembly must be secured in the shielded position each time the source is returned to that position.

B. Each sealed source storage container and source changer must have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. Storage containers and source changers must be kept locked, with the key removed at all times for a keyed-lock, when containing sealed sources, except when under the direct surveillance of a radiographer, a radiographer's assistant, or trainee.

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), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1232 (August 2001), LR 28:

A public hearing will be held on January 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by RP028\*. Such comments must be received no later than January 24, 2002, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of RP028\*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA

71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

0112#066

**NOTICE OF INTENT**

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

**Permit Procedures C Insignificant Activities List  
(LAC 33:III.501)(AQ222)**

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 Quality regulations, LAC 33:III.501 (Log #AQ222).

This rule proposes the addition of activities to the "Insignificant Activities List." These activities (LAC 33:III.501.B.5) are approved by the permitting authority as insignificant on the basis of size, emission or production rate, or type of pollutant. By such listing, the permitting authority exempts certain sources or types of sources from the requirement to obtain a permit under LAC 33:III.Chapter 5, unless it is determined by the permitting authority on a site-specific basis that any such exemption is not appropriate. The regulated community has asked for an expansion of the "Insignificant Activities List" under LAC 33:III.Chapter 5.Permit Procedures. Currently, the list includes approximately 45 activities or emission sources that produce air pollutants in such small amounts that they are exempted from the requirement to obtain a permit under Chapter 5. This proposed rule adds ten insignificant activities to the list. This addition will benefit existing permitted sources in reducing the number of temporary variances or permit minor modifications they are required to obtain from the department. For example, a variance is now required to bring in a small portable gasoline tank used to fuel mobile equipment for a maintenance project. Under the expanded list, this would not require a permit action, provided the tank emissions from the temporary tank met the insignificant standard specified in the regulation. Also, small businesses would be aided by reducing the requirements to obtain an air emissions permit or temporary variance, particularly when bringing in equipment on a temporary basis for construction or maintenance activities, provided such equipment met all the standards defining an insignificant emission source. For example, an existing small business not otherwise required to have an air emissions permit would not have to obtain a permit to add a permanent standby electrical generator for use only during power outages, provided such use met the standards defining the insignificant emission source. The basis and rationale for this proposed rule are to further simplify and streamline the

permitting process involving very small air emission sources.

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 5. Permit Procedures  
§501. Scope and Applicability**

\*\*\*

[See Prior Text in A. - B.4.b]

5. Insignificant Activities List. Those activities listed in the following table are approved by the permitting authority as insignificant on the basis of size, emission or production rate, or type of pollutant. By such listing, the permitting authority exempts certain sources or types of sources from the requirement to obtain a permit under this Chapter unless it is determined by the permitting authority on a site-specific basis that any such exemption is not appropriate. The listing of any activity or emission unit as insignificant does not authorize the maintenance of a nuisance or a danger to public health or safety. Any activity for which a state or federal applicable requirement applies is not insignificant, even if the activity meets the criteria below. For the purpose of permitting requirements under LAC 33:III.507, no exemption listed in the following table shall become effective until approved by the administrator in accordance with 40 CFR part 70.

<b>Insignificant Activities List</b>
A. Based on Size or Emission Rate
Permit applications submitted under Subsection A of this Section for sources that include any of the following emissions units, operations, or activities must either list them as insignificant activities or provide the information for emissions units as specified under LAC 33:III.517:
1. external combustion equipment with a design rate greater than or equal to 1 million BTU per hour, but less than or equal to 10 million BTU per hour, provided that the aggregate emissions from all such units listed as insignificant do not exceed five tons per year;
*** [See Prior Text in 2-3]
4. emissions of any inorganic air pollutant that is not a regulated air pollutant as defined under LAC 33:III.502, provided that the aggregate emissions from all such pollutants listed as insignificant do not exceed five tons per year;
5. external combustion equipment with a design rate less than 1 million BTU per hour;
6. emissions from laboratory equipment/vents used exclusively for routine chemical or physical analysis for quality control or environmental monitoring purposes, provided that the aggregate emissions from all such equipment vents considered insignificant do not exceed five tons per year, do not exceed any minimum emission rate listed in LAC 33:III.Chapter 51, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with section 112(g) of the federal Clean Air Act;
7. noncommercial water washing operations of empty drums less than or equal to 55 gallons with less than 3 percent of the maximum container volume of material;
8. portable fuel tanks used on a temporary basis in maintenance and construction activities, provided that the aggregate emissions from all such tanks listed as insignificant do not exceed five tons per year;

9. emissions from process stream or process vent analyzers, provided that the aggregate emissions from all such analyzers listed as insignificant do not exceed five tons per year, do not exceed any minimum emission rate listed in LAC 33:III.Chapter 51, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with section 112(g) of the federal Clean Air Act;
10. storage tanks containing, exclusively, soaps, detergents, surfactants, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, molasses, corn syrup, aqueous salt solutions, or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials, the tanks are not subject to 40 CFR 60, subpart Kb or other federal regulation, and the aggregate emissions from all such tanks listed as insignificant do not exceed five tons per year, do not exceed any minimum emission rate listed in LAC 33:III.Chapter 51, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with section 112(g) of the federal Clean Air Act;
11. catalyst charging operations, provided all such operations listed as insignificant do not exceed five tons per year, do not exceed any minimum emission rate listed in LAC 33:III.Chapter 51, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with section 112(g) of the federal Clean Air Act; and
12. portable cooling towers used on a temporary basis in maintenance activities, provided the aggregate emissions from all such cooling towers listed as insignificant do not exceed five tons per year, do not exceed any minimum emission rate listed in LAC 33:III.Chapter 51, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with section 112(g) of the federal Clean Air Act.
B. Based on Activity
The following activities need not be included in a permit application:
*** [See Prior Text in 1-3]
4. exhaust emissions or vehicle refueling emissions from cars, trucks, forklifts, courier vehicles, front-loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and nonroad mobile sources unless required to obtain a permit under Title V of the Clean Air Act. This exemption does not include any transportable emissions units such as temporary compressors or boilers, unless regulated by Title II of the Clean Air Act. This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21;
*** [See Prior Text in 5-31]
32. emergency use generators, boilers, or other fuel burning equipment that is of equal or smaller capacity than the primary operating unit, cannot be used in conjunction with the primary operating unit [except for short durations when shutting down the primary operating unit (maximum of 24 hours) and when starting up the primary operating unit until it reaches steady-state operation (maximum of 72 hours)], and does not increase emissions of or the potential to emit any regulated air pollutant;
*** [See Prior Text in 33-38]
39. tall oil soap storage, skimming, and loading;
40. emissions from caustic storage tanks that contain no VOC;
41. emissions from fire fighting training conducted in accordance with LAC 33:III.1109.D.7;
42. emissions from <i>oil and gas well and pipeline</i> as defined in accordance with LAC 33:III.502;
43. produced water treatment units (e.g., Wemco units) on crude oil and natural gas production platforms in state waters of the Gulf of Mexico that discharge produced water in accordance with an LPDES permit. These units are the final step in water treatment prior to water discharge under the LPDES permit;

44. portable diesel fuel storage tanks used on a temporary basis in maintenance and construction activities;
45. emergency electrical power generators used only during power outages at sites not otherwise required to have a permit under LAC 33:III.Chapter 5 and operated no more than 500 hours per year; and
46. reserved.
*** [See Prior Text in C-D.d]

<sup>1</sup>State or federal regulations may apply.

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[See Prior Text in B.6 - C.10]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2011 and 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 Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:

A public hearing will be held on January 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by AQ222. Such comments must be received no later than January 31, 2002, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ222.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary



**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Permit Procedures C Insignificant  
Activities List**

- 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 to implement this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The estimated effect on revenue collections of state governmental units from the proposed action will be negligible. There is no effect on revenue collections from local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Economic savings, if any, will be minor, and are dependent on the future plans of individual facilities (the future addition of equipment deemed an "insignificant activity" on the expanded "Insignificant Activities List" that is not on the current list), and are not further quantifiable. As an example, an existing small business not otherwise required to have a permit, would have to apply for a temporary variance at a cost of \$226.00 to bring in an electrical power generator for temporary use during a power outage. Under the expanded "Insignificant Activities List" the variance would not be required, provided such use met the standard defining the "insignificant" emission source (usage less than 500 hours per year).
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no effect on competition since all facilities must follow the same rules. There is no effect on employment.

James H. Brent, Ph.D. Assistant Secretary 0112#067	Robert E. Hosse General Government Section Director Legislative Fiscal Office
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**NOTICE OF INTENT**

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

UST Registration Requirements  
(LAC 33:XI.301 and 303)

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 Underground Storage Tanks regulations, LAC 33:XI.301 and 303 (Log #UT009).

The proposed Rule revises the current regulations to require all owners of new underground storage tanks (UST) systems to register such tanks on the Underground Storage Tanks Registration Form (UST-REG-01) at least 30 days prior to bringing such tanks into use. The certification of installation form, UST Registration of Technical Requirements (UST-REG-02), will no longer be required to be submitted at the same time as the registration form. The proposed Rule requires that this form be submitted within 60 days after the introduction of a regulated substance. (Note that the form names have changed.) This Rule amends the

Underground Storage Tanks Regulations to correct the existing problem with registration of new UST systems. The current Regulations prohibit the placing of a regulated substance into an unregistered UST. The regulations currently require that in order to register a new UST, both the Registration of Underground Storage Tanks (UST-REG-01) form and the Registration of Technical Requirements for USTs (UST-REG-02) form be submitted within 30 days of bringing the tanks into use. This has caused a problem since the Registration of Technical Requirements for USTs form cannot be completed until a tank tightness test has been performed, which requires that the tank be filled with fuel. Therefore, the Regulations are being revised to allow registration of a UST by completing the UST-REG-01 form 30 days before bringing a UST into use. This would be followed by submission of the UST-REG-02 form 60 days after fuel has been dropped in the UST and the tank can be certified as tight. The basis and rationale for this proposed rule are to allow fuel to be dropped into a UST for the purpose of tank tightness testing without violating the UST regulations.

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 XI. Underground Storage Tanks  
Chapter 3. Registration Requirements, Standards,  
and Fee Schedule**

**§301. Registration Requirements**

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[See Prior Text in A. - A.3]

B. New UST Systems. Upon the effective date of these regulations, all owners of new UST systems (as defined in LAC 33:XI.103) must, at least 30 days before bringing such tanks into use, register them on an *Underground Storage Tank Registration Form* (UST-REG-01). Registration forms shall be filed with the Office of Environmental Services, Permits Division. The following registration requirements apply to new UST systems:

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[See Prior Text in B.1 - C.3]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2194.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), LR 20:294 (March 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:

**§303. Standards for UST Systems**

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[See Prior Text in A. - A.4.b.i.(e)]

ii. Beginning January 20, 1992, all owners and operators must ensure that the individual exercising supervisory control over installation critical junctures (as defined in LAC 33:XI.1303) of an UST system is certified in accordance with LAC 33:XI.Chapter 13. To demonstrate compliance with Subsection A.4.a of this Section, all owners and operators must provide a certification of compliance on

the *UST Registration of Technical Requirements Form* (UST-REG-02) within 60 days of the introduction of any regulated substance. Forms shall be filed with the Office of Environmental Services, Permits Division.

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[See Prior Text in A.4.c - B.5.b]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2194.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:

A public hearing will be held on January 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed Regulations. Persons commenting should reference this proposed regulation by UT009. Such comments must be received no later than January 31, 2002, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of UT009.

This proposed Regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: UST Registration Requirements**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

No implementation costs or savings to state or local governmental units are expected as a result of this Rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on revenue collections of state or local governmental units as a result of the implementation of this Rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This Rule will have no economic impact on owners or operators of Underground Storage Tanks (UST).

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Competition and employment are not expected to be affected as a result of the implementation of this Rule.

James H. Brent, Ph.D.  
Assistant Secretary  
0112#069

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Office of Financial Institutions**

Banks (LAC 10:III.701-703)

In accordance with the authority granted by the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority granted by R.S. 6:290, 6:793, and 6:1310, the Commissioner of the Office of Financial Institutions proposes to repeal LAC 10:III.701-703, entitled "Directors' Examination Requirements," and to adopt a rule providing new directors' examination requirements.

**Title 10**

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,  
INVESTMENT SECURITIES, AND UCC**

**Part III. Banks**

**Chapter 7. Directors' Examination Requirements**

**§701. General Provisions**

A. Introduction. R.S. 6:290, 6:793, and 6:1310, amended by Act Number 530 of the 2001 Legislative Session, requires at least once in each year every state bank, savings bank, and savings and loan association (each hereafter referred to as "institution") to cause its books, records, and accounts to be examined in accordance with a Regulation promulgated by the Commissioner of the Office of Financial Institutions. This examination is called the annual directors' examination and constitutes the institution's annual external audit program. The annual external audit program must be conducted in accordance with the requirements prescribed in this Rule.

B. Board of Directors Responsibilities. The board of directors of an institution is responsible for determining how to best obtain reasonable assurance that the institution's financial statements and regulatory reports are prepared in accordance with appropriate accounting and regulatory standards. In this regard, the board is also responsible for ensuring that its annual external auditing program is appropriate based on the size and complexity of the institution and includes an evaluation of all significant risk. To help ensure the adequacy of internal controls and accuracy of financial reporting, the board of directors is required to establish and elect an audit committee of not less than three members, a majority of which shall be outside directors.

C. **Audit Committee Responsibilities.** The audit committee shall secure and oversee the annual external audit program required by this Rule. The committee shall require that a written report be presented to the board of directors and documented in the board minutes.

D. **Scope.** This Rule does not apply to all institutions regulated by the Office of Financial Institutions.

1. Institutions subject to this Rule include those institutions with less than \$500 million in total assets at the beginning of their fiscal year and have been insured by the Federal Deposit Insurance Corporation (FDIC) for at least three years and are under no contractual or enforcement actions which would require an annual external audit program more stringent than the options contained in Subsection E of this Rule.

2. Institutions not subject to this Rule include the following:

a. those institutions with total assets of \$500 million and greater must comply with federal banking law annual external audit requirements which are more stringent than the annual external audit options provided in this Rule;

b. those institutions that have been insured by the Federal Deposit Insurance Corporation (FDIC) for a period of less than four years are required to obtain annual financial audits performed by an independent public accountant;

c. those institutions that are under some type of enforcement action that requires an annual external audit program more stringent than the policy statement options.

E. **Acceptable Types of Annual External Audit Programs.** The types of annual external audit programs included in the Federal Regulatory Agencies' Interagency Policy Statement on External Auditing Programs of Banks and Savings Associations (Policy Statement) will meet the requirements of this Rule. The Policy Statement provides for the following four types of annual external audit programs:

1. a financial statement audit performed by an independent public accountant;

2. a balance sheet audit performed by an independent public accountant;

3. a report by an independent public accountant on an institution's internal control structure over financial reporting;

4. an agreed-upon procedures or state-required examination report.

F. **Auditor Qualifications**

1. If an institution's audit committee secures any of the types of annual external audit programs listed in Paragraphs E.1-3, the annual external audit program, as well as reports issued, must be performed by independent public accountants that have experience with financial institution accounting and auditing or similar expertise, are knowledgeable about relevant laws and regulations, and comply with the accounting, auditing, and other professional standards referred to in the Policy Statement.

2. If an audit committee selects the type of annual external audit program listed in Paragraph E.4, the annual external audit program, as well as reports issued, must be performed by either independent public accountants or qualified independent auditors. These individuals must have experience with financial institution accounting and auditing or similar expertise, are knowledgeable about relevant laws and regulations, and comply with the accounting, auditing,

and other professional standards established for the professional designations they hold.

G. **Annual Reporting Period.** The annual external audit program shall cover a maximum of a 12-month period of operations. Each subsequent annual report shall have the same ending period as the prior year report for comparison purposes, unless the institution obtains prior written permission from the commissioner to change its reporting date. The preferable time to schedule the performance of an annual external audit program is as of an institution's fiscal year-end. However, a quarter-end that coincides with a regulatory report date provides similar benefits. Therefore, an institution may choose either alternative as an acceptable reporting period for the annual external audit program, provided that same reporting date is used for future filings.

H. **Due Date and Reporting Requirements.** Within 90 days after the end of its fiscal year or quarter-end date that coincides with a regulatory report date for which the institution chooses as its annual reporting date, unless the institution obtains prior written permission from the commissioner to extend this date, each institution shall file with the commissioner two copies of the following:

1. the report, including all opinions and footnotes, if applicable, presented in connection with the type of annual external audit program selected by the audit committee and presented to the board of directors;

2. any management letters issued by the individual or firm that conducted the annual external audit services; and

3. management's response to any management letters issued.

I. **Holding Company Subsidiaries.** If an institution is owned by another entity such as a holding company and the group's consolidated financial statements for the same period are audited, the subsidiary institution is not required to obtain a separate audit of its financial statements provided the audit scope includes substantive testing of the subsidiary's financial records and activities. If the auditing firm considers the subsidiary institution's activities to be immaterial to the financial statements of the consolidated entity, the audit committee of the subsidiary institution shall obtain additional audit coverage that meets one of the four alternative annual external audit programs listed in Subsection E.

J. **Due Date and Reporting Requirements for Consolidated Financial Statements.** If an institution is included in an audited consolidated financial statement and the audit scope for the consolidated statement meets the requirements of Subsection I, within 90 days after the end of its fiscal year or period for which the consolidated financial statements are presented, unless the institution obtains prior written permission from the commissioner to extend this date, the institution shall submit two copies of the following:

1. the consolidated audited financial statements, which shall include the accountant's report, financial statements, and all footnotes;

2. consolidating worksheets for the balance sheet and statement of income that separately break out all entities within the consolidation on a separate basis;

3. any management letters issued by the individual or firm that conducted the annual external audit services; and

4. management's response to any management letters issued.

K. Multiple Institutions Included in a Consolidated Audited Financial Statement. If more than one institution is included in a consolidated audited financial statement, only two copies of the information listed in Subsection J should be submitted, with a cover letter identifying all institutions covered by the reports submitted. This information must be submitted to the commissioner of financial institutions within 90 days after the end of the fiscal year or period for which the consolidated financial statements are presented, unless the institution obtains prior written permission from the commissioner to extend this date.

L. Requirements for a Written Engagement Letter. The audit committee shall obtain a written engagement letter from an independent accountant or individual performing services, before such services are performed. The engagement letter shall include a description of all services to be performed, as well as any additional contractual conditions agreed to between the institution and the provider of the services.

M. Access to Examination Workpapers

1. Management shall provide the independent public accountant or other individuals that perform the annual external audit program access to all examination reports and written communication between the institution and the federal agencies or state bank commissioner since the last annual external auditing activity.

2. All independent public accountants and independent internal auditors that perform any of the types of annual external audit programs listed in Subsection E shall agree in the engagement letter to grant all authorized state and federal examiners access to all workpapers and other materials pertaining to the institution prepared in the course of performing the annual external audit program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:290, 6:793 and 6:1310.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 16:17 (January 1990), repealed and repromulgated by the Office of the Governor, Office of Financial Institutions, LR 28:

**§702. Definitions**

*Agreed-upon Procedures/State Required Examination Report*—the fourth type of annual external audit program allowable under the Federal Regulatory Agencies' Interagency Policy Statement on External Auditing Programs of Banks and Savings Associations. If an audit committee chooses this type of annual external audit program, the audit program must be performed in compliance with a policy statement issued by the commissioner.

*Annual Directors' Examination*—an annual examination of an institution's books, records, and accounts that must be:

1. the responsibility of and performed under the direction of the audit committee of the board of directors;
2. one of the types of audit programs permitted in this rule;
3. performed by individuals that meet the requirements stated in this rule;
4. summarized in a written report that is presented to the board of directors; and
5. submitted to the commissioner of the office of financial institutions and the FDIC, along with copies of management letters and management's response, within the time frames established in this rule.

*Federal Regulatory Agencies*—The Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS). These agencies cooperatively issue interagency policy statements.

*Immediate Family Members*—an individual's spouse, minor children and any children, including adult children, residing in the individual's home.

*Independent Internal Auditor*—a qualified internal auditor that is, in fact, independent as defined in the Standards for the Professional Practice of Internal Auditing by the Institute of Internal Auditors and/or the Statements of Principle and Standards for Internal Auditing in the Banking Industry by the Bank Administration Institute.

1. An internal auditor will not be considered independent if, for example:

- a. he/she is employed by or accountable to anyone other than the board of directors of the institution or holding company, if applicable;
- b. his/her salary and annual bonus are set by anyone other than the board of directors of the institution, or holding company if applicable;
- c. his/her duties consist of non-audit responsibilities within the institution or holding company;
- d. he/she has any proprietary interest in any partnership, firm or corporation which controls the institution, directly or indirectly, except that he or she may own and/or have a beneficial interest (including any shares of a retirement and/or incentive plan) of up to a maximum of 1 percent of the total outstanding shares of the institution or holding company which employs the internal auditor;
- e. he/she has any loan (including any overdrafts, cash items, unposted items, drawing against uncollected funds, or any other such items) to or from the institution or holding company or any officer, director, or principal stockholder thereof. This latter prescription does not apply to the following loans from a financial institution, which are free from classification by bank regulatory authorities, when made under normal lending procedures, terms and requirements:
  - i. automobile loans and leases collateralized by the automobile;
  - ii. loans secured by the surrender value of an insurance policy;
  - iii. loans fully collateralized by cash deposits at the same institution;
  - iv. credit cards and cash advances on checking accounts with an aggregate unpaid balance of \$5,000 or less, provided that these are obtained from a financial institution under its normal lending procedures, terms, and requirements and are at all times kept current as to all terms;
  - f. he/she is a member of the immediate family of an officer, director, attorney, or employee of the institution or holding company.

2. The aforementioned examples are not to be construed as all-inclusive criteria in judging the independence of an internal auditor, as other conditions may also contribute to the lack of independence. It is the responsibility of the board of directors to determine if there are any unusual relationships or affiliations, which the internal auditor may have with the institution and to have

any questions as to his or her independence resolved before he or she proceeds with the examination. Any unusual relationships shall be disclosed to the Commissioner of the Office of Financial Institutions.

**Independent Public Accountant** Can accountant who is independent of the institution and registered or licensed to practice, and holds himself or herself out as a public accountant, and who is in good standing under the laws of the state or political subdivision of the United States in which the home office of the institution is located. The independent public accountant must comply with the American Institute of Certified Public Accountants' (AICPA) Code of Professional Conduct and any related guidance adopted by the Independence Standards Board and the agencies. No certified public accountant or public accountant will be recognized as independent if he/she is not independent both in fact and in appearance.

**Outside Director** Members of an institution's board of directors who:

1. are not officers, employees, or principal stockholders (as defined below) of the institution, its subsidiaries, or its affiliates; or
2. are not immediate family members of officers, employees, principal stockholders of the institution, its subsidiaries, or its affiliates; or
3. do not have any material business dealings with the institution, its subsidiaries, or its affiliates.

**Policy Statement** The Interagency Policy Statement on External Auditing Programs of Banks and Savings Associations issued by the Federal Regulatory Agencies.

**Principal Stockholder** Any person that, directly or indirectly or acting through or in concert with one or more persons, owns, controls, or has the authority to vote more than ten percent of any class of voting securities of the financial institution or its parent company. Voting securities owned or controlled by a member of a person's immediate family are considered held by that person.

**Qualified Independent Internal Auditor** Can internal auditor that meets the "independent internal auditor" definition in this subsection who is a duly registered certified public accountant in good standing under the laws of this state, a certified internal auditor, a chartered bank auditor, or an individual that has functioned as an internal auditor in financial institutions for a minimum period of two years that recognizes and adheres to the rules of conduct and personal standards established for the professional designation(s) he or she holds. Any certified public accountant functioning as an internal auditor must adhere to the rules of conduct and standards applicable to the CPA in practice.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 6:290, 6:793 and 6:1310.

**HISTORICAL NOTE:** Promulgated by the Office of Financial Institutions, LR. 28:

**§703. Minimum Standards for Director's Examination**  
Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 6:290, 6:793 and 6:1310.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 16:17 (January 1990), repealed by the Office of the Governor, Office of Financial Institutions, LR 28:

If any provisions or item of this Regulation, or the application thereof, is held invalid, such invalidity shall not

affect other provisions, items, or applications of the Regulation which can be given effect without the invalid provisions, item, or application.

The proposed Rule will have no adverse fiscal or economic impact, nor will it adversely impact family formation, stability, and autonomy.

All interested persons are invited to submit written comments on this proposed Rule no later than 4:30 p.m., January 18, 2002, to Gary L. Newport, General Counsel, Office of Financial Institutions, P.O. Box 94095, Baton Rouge, LA 70804-9095, or by hand delivery to the Office of Financial Institutions, 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA 70809-7024.

John D. Travis  
Commissioner

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Banks

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated cost of implementing this rule will be approximately \$600, the cost to publish the notice of intent and the final rule in the *Louisiana Register*.

### 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 are no estimated costs to persons or non-governmental groups directly affected by this rule.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

John D. Travis  
Commissioner  
0112#050

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Office of the Governor Division of Administration Office of Group Benefits

#### EPO Plan of Benefits Claims Filing Deadline (LAC 32:V.405)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B.(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to the deadline for filing claims. The reason for this action is to provide a uniform, 12-month deadline from the date of service for filing claims.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective July 1, 2002.

**Title 32**

**EMPLOYEE BENEFITS**

**Part V. Exclusive Provider (EPO) Plan of Benefits**

**Chapter 4. Uniform Provisions**

**§405. When Claims Must be Filed**

A. A claim for benefits must be received by the program within one year from the date on which the medical expenses were incurred.

B. The receipt date for electronically filed claims is the date on which the program receives the claim, not the date on which the claims is submitted to a clearinghouse or to the providers practice management system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

**Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Thursday, January 24, 2002.

A public hearing will be held from 6 p.m. until 7:30 p.m. on Thursday, January 24, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, LA 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: EPO Plan of Benefits C Claims  
Filing Deadline**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefit modification will have no significant cost impact. This Rule will change the claims filing deadline from June 30 of the calendar year following the year the claims were incurred to 12 months after the claims were incurred.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state and local governmental units will not be affected.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

This Rule will change the claims filing deadline from June 30 of the calendar year following the year the claims were incurred to 12 months after the claims were incurred.

The proposed change would serve to increase the time for filing claims incurred later in the calendar year, and to decrease the time for filing claims incurred early in the calendar year with little or no overall impact. Most claims are filed by providers and are done so timely.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

Competition and employment will not be affected.

A. Kip Wall  
Chief Executive Officer  
0112#095

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of Group Benefits**

EPO Plan of Benefits CDeductible, Services Other than  
Physician Office Visits (LAC 32:V.701)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document to implement a deductible for services other than physician office visits. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of OGB and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective July 1, 2002.

**Title 32**

**EMPLOYEE BENEFITS**

**Part V. Exclusive Provider (EPO) Plan of Benefits**

**Chapter 7. Schedule of Benefits C EPO**

**§701 Comprehensive Medical Benefits**

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

**PPO/Non  
Participating  
Provider EPO**

Lifetime Maximum for all Benefits except  
Outpatient Prescription Drug Benefits per  
person ...  
Lifetime Maximum for all Outpatient  
Prescription Drug Benefits per person ...

**1. Deductibles:**

Inpatient deductible per day, maximum of  
5 days per Admission (waived for  
admissions at PPO hospitals) ...  
Emergency room charges for each visit  
unless the Covered Person is hospitalized

immediately following emergency room treatment (prior to and in addition to Calendar Year deductible) ...  
Professional and other eligible expenses, Employees and Dependents of Employees, per person, per Calendar Year ...

Family Unit maximum (3 individual deductibles)  
Professional and other eligible expenses, Retirees and Dependents of Retirees, per person, per Calendar Year ...

Family Unit maximum (3 individual deductibles)

Professional and other eligible expenses, other than physician office visits, per person, per Calendar Year \$300  
Family Unit maximum (3 individual deductibles)

A.2. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1823 (October 1999), LR 26:487 (March 2000), LR 27:717, 719 (May 2001), LR 27:1886 amended by the Office of the Governor, Division of Administration, Office of Group Benefits, (November 2001), LR 28:

#### Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy, except as follows: Effect on family earnings and family budget -Families participating in the OGB's EPO plan will be responsible for a deductible of \$300 per family member for healthcare services other than physician office visits that are not otherwise subject to a co-payment. At present, there is no deductible applicable to these services.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Thursday, January 24, 2002.

A public hearing will be held from 6 p.m. until 7:30 p.m. on Thursday, January 24, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, LA 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

##### RULE TITLE: EPO Plan of Benefits C Deductible, Services Other than Physician Office Visits

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefit modification would save the EPO plan of OGB approximately \$2.6 million in FY 2002/2003, \$2.8 million in FY in 2003/2004, and \$3.1 million in FY

2004/2005. This deductible would apply to physician charges for surgery, medical hospital visits, anesthesia, radiology, pathology, physical therapy, and other fees where an office copayment does not apply.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The intent of these benefits modifications is to reduce costs of the OGB and reduce the magnitude of future rate increases.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule will result in OGB-EPO members being assessed a \$300 deductible for professional services other than physician office visits incurred by EPO members and dependents in the network. The \$300 deductible will apply to all services that are not subject to an office visit copayment. This could result in an additional \$300 in out of pocket costs for the EPO member.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

A. Kip Wall  
Chief Executive Officer  
0112#091

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

#### NOTICE OF INTENT

##### Office of the Governor Division of Administration Office of Group Benefits

EPO Plan of Benefits C Deductibles,  
Non-EPO Provider Services (LAC 32:V.701)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to the deductible applicable to services rendered for EPO plan participants by non-EPO providers. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of OGB and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective July 1, 2002.

#### Title 32

#### EMPLOYEE BENEFITS

##### Part V. Exclusive Provider (EPO) Plan of Benefits Chapter 7. Schedule of Benefits C EPO §701. Comprehensive Medical Benefits

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

PPO/Non- EPO

**Participating  
Provider**

Lifetime Maximum for all Benefits except  
Outpatient Prescription Drug Benefits per  
person ...

Lifetime Maximum for all Outpatient  
Prescription Drug Benefits per person ...

**1. Deductibles:**

Inpatient deductible per day, maximum of  
5 days per Admission (waived for  
admissions at PPO hospitals) ...

Emergency room charges for each visit  
unless the Covered Person is hospitalized  
immediately following emergency room  
treatment (prior to and in addition to  
Calendar Year deductible) ...

Professional and other eligible expenses,  
Employees and Dependents of Employees,  
per person, per Calendar Year

\$500 0

Family Unit maximum (3 individual  
deductibles)

Professional and other eligible expenses,  
Retirees and Dependents of Retirees, per  
person, per Calendar Year

\$300 0

Family Unit maximum (3 individual  
deductibles)

Professional and other eligible expenses,  
other than physician office visits, per  
person, per Calendar Year ...

Family Unit maximum (3 individual  
deductibles)

**A.2. - G ...**

**AUTHORITY NOTE:** Promulgated in accordance with R.S.  
42:801(C) and 802(B)(2).

**HISTORICAL NOTE:** Promulgated by the Office of the  
Governor, Board of Trustees of the State Employees' Group  
Benefits Program, LR 25:1823 (October 1999), amended LR  
26:487 (March 2000), LR 27:717, 719 (May 2001), amended by the  
Office of the Governor, Division of Administration, Office of  
Group Benefits, LR 27:1886 (November 2001), LR 28:

**Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the  
following Family Impact Statement is submitted by the  
Office of Group Benefits with the Notice of Intent for  
publication in the December 20, 2001 *Louisiana Register*:  
The proposed Rules have no known impact on family  
formation, stability, or autonomy, except as follows: Effect  
on family earnings and family budget - For families of active  
employees participating in the OGB's EPO plan the  
deductible responsibility for healthcare services rendered by  
providers who are not participants in OGB's EPO network  
will increase from \$300 per family member to \$500 per  
family member. The deductible for families of retired  
employees remains \$300.

Interested persons may present their views, in writing, to  
A. Kip Wall, Chief Executive Officer, Office of Group  
Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30  
p.m. on Thursday, January 24, 2002.

A public hearing will be held from 6 p.m. until 7:30 p.m.  
on Thursday, January 24, 2002 at the Louisiana Department  
of Transportation and Development (DOTD) Auditorium,  
1201 Capitol Access Road, Baton Rouge, Louisiana 70802.  
Interested persons may appear and present their views at that  
time.

A. Kip Wall  
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: EPO Plan of Benefits C Deductibles,  
Non-EPO Provider Services**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is estimated by OGB's consulting actuary, Arthur  
Andersen, that this benefit modification would save the EPO  
plan of OGB approximately \$50,000 in FY 2002/2003, \$60,000  
in FY 2003/2004 and \$60,000 in FY 2004/2005. This  
deductible would apply only when EPO members use non-  
network providers. The current deductible for EPO members  
that utilize non-network providers is \$300.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This benefit modification is being made to reduce costs of  
the OGB and reduce the magnitude of future rate increases.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

This Rule will result in OGB-EPO members being assessed  
an increased deductible of \$500 for utilizing the services of  
non-network providers. The current deductible is \$300 and this  
could possibly result in an additional \$200 in costs for  
members of the EPO plan.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

Competition and employment will not be affected.

A. Kip Wall  
Chief Executive Officer  
0112#090

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of Group Benefits**

EPO Plan of Benefits C Legal Limitations, Administrative  
Claims Review (LAC 32:V.409 and Chapter 5)

In accordance with the applicable provisions of R.S.  
49:950, et seq., the Administrative Procedure Act, and  
pursuant to the authority granted by R.S. 42:801(C) and  
802(B)(2), as amended and reenacted by Act 1178 of 2001,  
vesting the Office of Group Benefits (OGB) with the  
responsibility for administration of the programs of benefits  
authorized and provided pursuant to Chapter 12 of Title 42  
of the Louisiana Revised Statutes, and granting the power to  
adopt and promulgate rules with respect thereto, OGB finds  
that it is necessary to revise and amend provisions of the  
EPO Plan Document relative to review of initial claims  
determinations and the time for initiating legal action against  
OGB. The reason for this action is to modify claims review



procedures in light of statutory changes effected by Act 1178 of 2001.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective upon promulgation:

### **Title 32**

## **EMPLOYEE BENEFITS**

### **Part V. Exclusive Provider (EPO) Plan of Benefits**

#### **Chapter 4. Uniform Provisions**

##### **§409. Legal Limitations**

A. A Plan Member must exhaust the Administrative Claims Review procedure before filing a suit for benefits. No action shall be brought to recover benefits under this plan more than one year after the time a claim is required to be filed or more than 30 days after mailing of the notice of decision of the Administrative Claims Committee, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### **Chapter 5. Administrative Claims Review**

NOTE: This section establishes and explains the procedures for review of benefit and eligibility decisions by the Program.

##### **§501. Administrative Claims Review**

A. The Covered Person may request from the Program a review of any claim for benefits or eligibility. The written request must include the name of the Covered Person, member number, the name of the patient, the name of the provider, dates of service and should clearly state the reasons for the appeal.

B. The request for review must be directed to Attention: Administrative Claims Review within 90 days after the date of the notification of denial of benefits, denial of eligibility, or denial after review by the utilization review organization or prescription benefits manager

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

##### **§503. Review and Appeal Prerequisite to Legal Action**

The Covered Person must exhaust the Administrative Claims Review procedure before filing a suit for benefits. Unless a request for review is made, the initial determination becomes final, and no legal action may be brought to attempt to establish eligibility or to recover benefits allegedly payable under the Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

##### **§505. Administrative Claims Committee**

The CEO will appoint an Administrative Claims Committee (the committee) to consider all such requests for review and to ascertain whether the initial determination was made in accordance with the Plan Document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

##### **§507. Administrative Claims Review Procedure and Decisions**

A. Review by the Committee shall be based upon a documentary record which includes:

1. All information in the possession of the Program relevant to the issue presented for review;
2. All information submitted by the Covered Person in connection with the request for review; and
3. Any and all other information obtained by the Committee in the course of its review.

B. Upon completion of the review the Committee will render its decision which will be based on the Plan Document and the information included in the record. The decision will contain a statement of reasons for the decision. A copy of the decision will be mailed to the Covered Person and any representative thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

##### **§509. Procedure for Hearing Appeals**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1818 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

##### **§511. Subpoena of Witness; Production of Documents**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1818 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

##### **§513. Appeals Decisions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1818 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

##### **§515. Rehearing**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1818 (October 1999), repealed by the

Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

**§517. Judicial Review**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1818 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

**Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Thursday, January 24, 2002.

A public hearing will be held from 6:00 p.m. until 7:30 p.m. on Thursday, January 24, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, LA 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: EPO Plan of Benefits C Legal  
Limitations, Administrative Claims Review**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This rule change is the result of statutory changes that were the result of Act 1178 of the 2001 Regular Session of the Louisiana Legislature. This rule establishes the appointment of the Administrative Claims Committee and the procedure for members to file for a review of eligibility decisions of the program. There should be no impact on costs as a result of this rule change.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state and local governmental units will not be affected.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule will establish the procedure for filing appeals of claims eligibility decisions made by the Office of Group Benefits. This rule establishes an Administrative Claims Committee to be appointed by the CEO of the program and all appeal decisions will be reviewed and determined by this committee.

A covered person may request a review of any claim for benefits or eligibility. The written request must include the name of the covered person, member number, name of patient, name of provider, dates of service and should clearly state the reason for the appeal. All appeals must be reviewed by the Administrative Claims Committee within 90 days.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Competition and employment will not be affected.

A. Kip Wall  
Chief Executive Officer  
0112#094

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of Group Benefits**

EPO Plan of Benefits CSleep Studies (LAC 32:V.301)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to sleep studies. The reason for this action is to enhance member access to accredited facilities for sleep studies.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective upon promulgation.

**Title 32**

**EMPLOYEE BENEFITS**

**Part V. Exclusive Provider (EPO) Plan of Benefits**

**Chapter 3. Medical Benefits**

**§301. Medical Benefits Apply when Eligible Expenses are Incurred by a Covered Person**

A.1. - 30. ...

31. testing of sleep disorders only when the tests are performed at a sleep study facility accredited by the American Sleep Disorders Association or located within a healthcare facility accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). No benefits are payable for surgical treatment of sleep disorders (including LAUP) except following demonstrated failure of non-surgical treatment and upon approval by the program;

32. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1810 (October 1999), amended by the Office of the Governor, Division of Administrator, Office of Group Benefits, LR 28:

**Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group

Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Thursday, January 24, 2002.

A public hearing will be held from 6 p.m. until 7:30 p.m. on Thursday, January 24, 2002, at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, Louisiana 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: EPO Plan of Benefits CSleep Studies**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefit modification will have no significant cost impact. This Rule should only result in a change in the distribution of sleep studies between different facilities, with no overall increase or decrease in the utilization of such studies.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state and local governmental units will not be affected.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This Rule will change the criteria for covering "sleep studies" so as to include facilities that are accredited by the JCAHO, as well as those accredited by the American Sleep Disorders Association. There is currently 1 covered facility, which could be expanded to a maximum of 10 facilities if all JCAHO units were to participate in the EPO plan. During FY 00/01, \$163,000 was paid benefits for sleep studies for all members.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Competition and employment could possibly be affected if all sleep study participants were to migrate from the current approved facility to any newly approved JCAHO facilities.

A. Kip Wall  
Chief Executive Officer  
0112#092

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of Group Benefits**

EPO Plan of Benefits CStop Loss Threshold,  
Mental Health Benefits (LAC 32:V.703)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B.2, as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds

that it is necessary to revise and amend provisions of the EPO Plan Document relative to the stop loss threshold for mental health and substance abuse (MHSA) treatment services. The reason for this action is to adjust the MHSA stop loss threshold to the same as the stop loss threshold for other treatment services.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective July 1, 2002.

**Title 32**

**EMPLOYEE BENEFITS**

**Part III. Exclusive Provider (EPO) Plan of Benefits**

**Chapter 7. Schedule of Benefits CEPO**

**§703. Mental Health And Substance Abuse**

(Requires prior approval of services)

- A. ...
- B. Benefits

80% of the first \$10,000 of eligible expenses  
100 % of eligible expenses over \$10,000 until the Lifetime Maximum for all Plan benefits is reached

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 42:801.C and 802.B(2).

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1824 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

**Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy, except as follows: Effect on family earnings and family budget - For families participating in the OGB's EPO plan, the maximum co-insurance liability per family member for mental health and substance abuse treatment services will increase from \$1,000 to \$2,000.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Thursday, January 24, 2002.

A public hearing will be held from 6 p.m. until 7:30 p.m. on Thursday, January 24, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, LA 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: EPO Plan of Benefits CStop Loss  
Threshold, Mental Health Benefits**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefit modification will save the EPO plan of OGB approximately \$70,000 for FY 2002/2003, \$80,000 in *Louisiana Register Vol. 27, No. 12 December 20, 2001*

FY 2003/2004, and \$80,000 in FY 2004/2005. It is estimated these savings will increase at an annual rate of 9 percent for the following years. The trend rate for MHSA services is based on the current capitation rates that are in place with our provider.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The intent of these benefit modifications is to reduce costs of the OGB and reduce the magnitude of future rate increases.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This Rule change will require that any person that is covered in the EPO plan that receives Mental Health and Substance Abuse treatment to have a coinsurance share on \$10,000 worth of benefits rather than the current \$5,000. This has the effect of bringing the treatment of behavioral health benefits in line with the treatment of non-behavioral health benefits under both plans. Members currently pay a 20 percent copayment on the first \$5,000 in charges. This would increase to a 20 percent copayment on the first \$10,000 in charges for a net increase of \$1,000 on the member.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Competition and employment will not be affected.

A. Kip Wall  
Chief Executive Officer  
0112#093

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**  
**Office of the Governor**  
**Division of Administration**  
**Office of Group Benefits**

**EPO Plan of Benefits C Stop Loss Threshold, Non-EPO Provider Services (LAC 32:V.323 and 701)**

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to the stop loss threshold applicable to services rendered to EPO plan participants by non-EPO providers. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of OGB and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective July 1, 2002.

**Title 32**

**EMPLOYEE BENEFITS**

**Part V. Exclusive Provider (EPO) Plan of Benefits**

**Chapter 3. Medical Benefits**

**§323. Preferred Provider Program**

A. ...

B. If a covered person obtains medical services or hospital services from an eligible provider who has agreed to

provide the services at a mutually agreed upon discount from the maximum medical fee schedule or at a per diem or discounted rate from a hospital, the program will pay, following satisfaction of all applicable deductibles, 70 percent of the first \$10,000 of eligible expenses and 100 percent of eligible expenses, except prescription drugs, in excess of \$10,000 for the remainder of the calendar year subject to the maximum amount as specified in the schedule of benefits.

C. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1815 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

**Chapter 7. Schedule of Benefits—EPO**  
**§701. Comprehensive Medical Benefits**

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

	<b>PPO/Non Participating Provider</b>	<b>EPO</b>
Lifetime Maximum for all Benefits except Outpatient Prescription Drug Benefits per person ...		
Lifetime Maximum for all Outpatient Prescription Drug Benefits per person ...		
1. ...		
2. Percentage Payable after Satisfaction of Applicable Deductibles		
Eligible expenses incurred at an EPO ...		
Eligible expenses incurred at a PPO ...		
Eligible expenses incurred at a non-PPO/non-EPO when one is available in the region ...		
Eligible expenses incurred at a non-PPO/non-EPO when not available at an EPO/PPO or out of state ...		
Eligible expenses incurred when Medicare or Other Group Health plan is primary, and after Medicare reduction ...		
Eligible expenses in excess of \$10,000 per Calendar Year per person	100%	N/A

A.3. - G ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1823 (October 1999), amended LR 26:487 (March 2000), LR 27:717 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1886 (November 2001), LR 28:

### Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy, except as follows: Effect on family earnings and family budget - For families participating in the OGB's EPO plan, the maximum coinsurance liability per family member for healthcare services rendered by providers who are not participants in OGB's EPO network will increase from \$2,500 to \$5,000.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Thursday, January 24, 2002.

A public hearing will be held from 6 p.m. until 7:30 p.m. on Thursday, January 24, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, LA 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: EPO Plan of Benefits CStop Loss Threshold, Non-EPO Provider Services

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefit modification would save the EPO plan of OGB approximately \$650,000 in FY 2002/2003, \$710,000 in FY 2003/2004, and \$770,000 in FY 2004/2005. This stop loss would apply to all benefits that are paid to non-EPO providers. There is currently a \$5,000 stop loss in place for the EPO.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The intent of these benefits modifications is to reduce costs of the OGB and reduce the magnitude of future rate increases.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule will result in OGB-EPO members having to pay a coinsurance amount on the first \$10,000 of eligible non-EPO benefits that are billed during any plan year. The current stop loss for non-EPO charges is \$5,000 per plan year. Currently members of the EPO that receive services at a non-EPO are responsible for 30% of the first \$5,000 in charges for an out of pocket cost of \$1,500. This will be raised to 30% of the first \$10,000 in charges for a maximum out of pocket cost of \$3,000.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

A. Kip Wall  
Chief Executive Officer  
0112#089

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Office of the Governor Division of Administration Office of Group Benefits

#### PPO Plan of Benefits CClaims Filing Deadline (LAC 32:III.405)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document relative to the deadline for filing claims. The reason for this action is to provide a uniform, 12-month deadline from the date of service for filing claims.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective July 1, 2002:

#### Title 32

#### EMPLOYEE BENEFITS

#### Part III. Preferred Provider (PPO) Plan of Benefits

#### Chapter 4. Uniform Provisions

#### §405. When Claims Must be Filed

A. A claim for benefits must be received by the program within one year from the date on which the medical expenses were incurred.

B. The receipt date for electronically filed claims is the date on which the program receives the claim, not the date on which the claims is submitted to a clearinghouse or to the providers practice management system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1836 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Thursday, January 24, 2002.

A public hearing will be held from 6 p.m. until 7:30 p.m. on Thursday, January 24, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, LA 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: PPO Plan of Benefits C Claims Filing  
Deadline**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefit modification will have no significant cost impact. This Rule will change the claims filing deadline from June 30 of the calendar year following the year the claims were incurred to 12 months after the claims were incurred.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Revenue collections of state and local governmental units will not be affected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
This Rule will change the claims filing deadline from June 30 of the calendar year following the year the claims were incurred to 12 months after the claims were incurred.  
The proposed change would serve to increase the time for filing claims incurred later in the calendar year, and to decrease the time for filing claims incurred early in the calendar year with little or no overall impact. Most claims are filed by providers and are done so timely.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
Competition and employment will not be affected.

A. Kip Wall  
Chief Executive Officer  
0112#087

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of Group Benefits**

PPO Plan of Benefits C Legal Limitations,  
Administrative Claims Review  
(LAC 32:III.409, 501, 503, 505, 507; 509-517)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document relative to review of initial claims determinations and the time for initiating legal action against OGB. The reason for this action is to modify claims review procedures in light of statutory changes effected by Act 1178 of 2001.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective upon promulgation.

**Title 32**

**EMPLOYEE BENEFITS**

**Part III. Exclusive Provider (PPO) Plan of Benefits**

**Chapter 4. Uniform Provisions**

**§409. Legal Limitations**

A. A Plan Member must exhaust the Administrative Claims Review procedure before filing a suit for benefits. No action shall be brought to recover benefits under this plan more than one year after the time a claim is required to be filed or more than thirty days after mailing of the notice of decision of the Administrative Claims Committee, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1836 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

**Chapter 5. Administrative Claims Review**

NOTE: This section establishes and explains the procedures for review of benefit and eligibility decisions by the Program.

**§501. Administrative Claims Review**

A. The Covered Person may request from the Program a review of any claim for benefits or eligibility. The written request must include the name of the Covered Person, member number, the name of the patient, the name of the provider, dates of service and should clearly state the reasons for the appeal.

B. The request for review must be directed to Attention: Administrative Claims Review, within 90 days after the date of the notification of denial of benefits, denial of eligibility, or denial after review by the utilization review organization or prescription benefits manager

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

**§503. Review and Appeal Prerequisite to Legal Action**

A. The Covered Person must exhaust the Administrative Claims Review procedure before filing a suit for benefits. Unless a request for review is made, the initial determination becomes final, and no legal action may be brought to attempt to establish eligibility or to recover benefits allegedly payable under the Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

**§505. Administrative Claims Committee**

A. The CEO will appoint an Administrative Claims Committee (the Committee) to consider all such requests for review and to ascertain whether the initial determination was made in accordance with the Plan Document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### **§507. Administrative Claims Review Procedure and Decisions**

A. Review by the Committee shall be based upon a documentary record which includes:

1. all information in the possession of the Program relevant to the issue presented for review;
2. all information submitted by the Covered Person in connection with the request for review; and
3. any and all other information obtained by the Committee in the course of its review.

B. Upon completion of the review the Committee will render its decision which will be based on the Plan Document and the information included in the record. The decision will contain a statement of reasons for the decision. A copy of the decision will be mailed to the Covered Person and any representative thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### **§509. Procedure for Hearing Appeals**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### **§511. Subpoena of Witnesses; Production of Documents**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### **§513. Appeals Decisions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### **§515. Rehearing**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), repealed by

the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### **§517. Judicial Review**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### **Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Thursday, January 24, 2002.

A public hearing will be held from 6 p.m. until 7:30 p.m. on Thursday, January 24, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, LA 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: PPO Plan of Benefits C Legal Limitations, Administrative Claims Review**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This Rule is the result of statutory changes that were the result of Act 1178 of the 2001 Regular Session of the Louisiana Legislature. This Rule establishes the appointment of the Administrative Claims Committee and the procedure for members to file for a review of eligibility decisions of the program. There should be no impact on costs as a result of this rule change.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state and local governmental units will not be affected.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This Rule will establish the procedure for filing appeals of claims eligibility decisions made by the Office of Group Benefits. This Rule establishes an Administrative Claims Committee to be appointed by the CEO of the program and appeal decisions will be reviewed and determined by this committee.

A covered person may request a review of any claim for benefits or eligibility. The written request must include the name of the covered person, member number, name of patient, name of provider, dates of service and should clearly state the reason for the appeal. All appeals must be reviewed by the Administrative Claims Committee within 90 days.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

Competition and employment will not be affected.

A. Kip Wall  
Chief Executive Officer  
0112#088

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of Group Benefits**

PPO Plan of Benefits CSleep Studies (LAC 32:III.301)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document relative to sleep studies. The reason for this action is to enhance member access to accredited facilities for sleep studies.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective upon promulgation.

**Title 32**

**EMPLOYEE BENEFITS**

**Part III. Preferred Provider (PPO) Plan of Benefits**

**Chapter 3. Medical Benefits**

**§301. Medical Benefits Apply When Eligible Expenses are Incurred by a Covered Person**

A.1. - 30. ...

31. testing of sleep disorders only when the tests are performed at a sleep study facility accredited by the American Sleep Disorders Association or located within a healthcare facility accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). No benefits are payable for surgical treatment of sleep disorders (including LAUP) except following demonstrated failure of non-surgical treatment and upon approval by the program;

32. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1830 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

**Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group

Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Thursday, January 24, 2002.

A public hearing will be held from 6:00 p.m. until 7:30 p.m. on Thursday, January 24, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, LA 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: PPO Plan of Benefits CSleep Studies**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefit modification will have no significant cost impact. This rule should only result in a change in the distribution of sleep studies between different facilities, with no overall increase or decrease in the utilization of such studies.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state or local governmental units will not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule will change the criteria for covering "sleep studies" so as to include facilities that are accredited by the JCAHO, as well as those accredited by the American Sleep Disorders Association. There are currently 8 covered facilities, which could be expanded to a maximum of 17 facilities if all JCAHO facilities were to participate in the PPO plan. During FY 00/01, \$163,000 was paid benefits for sleep studies for all members.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment could possibly be affected if all sleep study participant participants were to migrate from the current 8 approved facilities to any newly approved JCAHO facilities.

A. Kip Wall  
Chief Executive Officer  
0112#097

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of Group Benefits**

PPO Plan of Benefits  
Stop Loss Threshold CMental Health Benefits  
(LAC 32:III.703)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42



of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document relative to the stop loss threshold for mental health and substance abuse (MHSA) treatment services. The reason for this action is to adjust the MHSA stop loss threshold to the same as the stop loss threshold for other treatment services.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective July 1, 2002.

#### **Title 32**

#### **EMPLOYEE BENEFITS**

#### **Part III. Preferred Provider (PPO) Plan of Benefits**

#### **Chapter 7. Schedule of Benefits C PPO**

#### **§703. Mental Health And Substance Abuse**

(Requires prior approval of services)

A. ...

B. Benefits

80% of the first \$10,000 of eligible expenses

100 % of eligible expenses over \$10,000 until the Lifetime

Maximum for all Plan benefits is reached

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Plan, LR 25:1844 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

#### **Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted by the Office of Group Benefits with the Notice of Intent for publication in the December 20, 2001 *Louisiana Register*: The proposed Rules have no known impact on family formation, stability, or autonomy, except as follows: Effect on family earnings and family budget, for families participating in the OGB's PPO plan, the maximum co-insurance liability per family member for mental health and substance abuse treatment services will increase from \$1,000 to \$2,000.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Thursday, January 24, 2002.

A public hearing will be held from 6:00 p.m. until 7:30 p.m. on Thursday, January 24, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, Louisiana 70802. Interested persons may appear and present their views at that time.

A. Kip Wall  
Chief Executive Officer

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: PPO Plan of Benefits Stop Loss Threshold C Mental Health Benefits**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefit modification will save the PPO plan

of OGB approximately \$170,000 for FY 2002/2003, \$190,000 for 2003/2004 and \$200,000 for FY 2004/2005. It is estimated these savings will increase at an annual rate of 9% for the following years. The trend rate for MHSA services is based on the current capitation rates that are in place with our provider.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The intent of these benefit modifications is to reduce costs of the OGB and reduce the magnitude of future rate increases.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule change will require that any person who is covered in the PPO plan who receives Mental Health and Substance Abuse treatment to have a coinsurance share on \$10,000 worth of benefits rather than the current \$5,000. This has the effect of bringing the treatment of behavioral health benefits in line with the treatment of non-behavioral health benefits under both plans. Members currently pay a 20 percent copayment on the first \$5,000 in charges. This would increase to a 20 percent copayment on the first \$10,000 in charges for a net increase of \$1,000 on the member.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Competition and employment will not be affected.

A. Kip Wall  
Chief Executive Officer  
0112#096

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

#### **NOTICE OF INTENT**

#### **Office of the Governor Division of Administration Racing Commission**

Claiming Rule (LAC 45:XI.9915 and 9939)

Editor's Note: The full text of this Notice of Intent is being repromulgated to correct a reference. This Notice of Intent ran in the October 2001 issue on page 1942. The text showed reference to the Emergency Rule that was published in the September 2001 issue on pages 1497-1499.

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:XI.9915 "Number of Horses Claimed Per Race" and LAC 35:XI.9939 "Number of Claims on Stable or Trainer" because it is no longer desirable nor necessary to limit one claim per claiming race; it is more beneficial to all parties to increase that limit to two. This is consistent with other racing jurisdictions.

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

#### **Title 35**

#### **HORSE RACING Part XIII. Wagering**

#### **Chapter 116. Pick Four**

#### **§11601. Description; Selection; Principle**

A. The pick four is a form of pari-mutuel wagering. Bettors select the first horse in each of four consecutive races designated as the pick four by the permit holder. The principle of a pick four is in effect a contract by the purchaser of a pick four ticket to select the winners of each of the four races designated as the pick four. The sale of pick four tickets other than from pari-mutuel machines shall be deemed illegal and is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

#### **§11603. Wagering Pool**

A. The pick four pool shall be held entirely separate from all other pools and is no part of a daily double, exacta, trifecta, quinella or any other wagering pool. The pick four pool is a pool wherein the bettor is required to select four consecutive winning horses and is not a parlay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

#### **§11605. Denominations**

A. Pick four tickets shall be sold in not less than \$1 denominations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

#### **§11607. Approval; Notation**

A. Races in which pick four pools are conducted shall be approved by the Commission and clearly designated in the program, and pick four tickets will be clearly marked as pick four tickets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

#### **§11609. Procedure**

A. After the wagering closes for the first race of the four designated pick four races, the commission will be deducted from the pari-mutuel pool in accordance with Louisiana law. The remaining net pool, subject to distribution among winning ticket holders shall be distributed among the holders of tickets which correctly designate the winner in all four races comprising the pick four and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

1. In the event no ticket is sold combining winners of the four races comprising the pick four, the holders of tickets which include the winners of any three of the four races shall be deemed winning ticket holders, and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

2. In the event no ticket is sold combining the winners of three of the four races comprising the pick four, the holders of tickets which include the winners of any two of the four races shall be deemed winning ticket holders, and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

3. In the event no ticket is sold combining the winners of two of the four races comprising the pick four, the holders of tickets which include the winner(s) of any one of the four races shall be deemed winning ticket holders, and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

#### **§11611. No Winning Ticket**

A. In the event no winning ticket is sold that would require the distribution of the pick four pool as mentioned in §11609, the association shall make a complete refund of the pick four pool.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

#### **§11613. Cancelled Races**

A. If for any reason one or more of the races comprising the pick four is/are cancelled or declared "no race," the net pool shall be distributed as provided in §11609.

B. In the event the pick four pool is opened and wagers accepted, and all four races comprising the pick four are cancelled for any reason, the association shall make a complete refund of the pick four pool.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

#### **§11615. Dead Heats**

A. In the event of a dead heat for win between two or more horses in any pick four race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

#### **§11617. Closing Time; Disclosure**

A. No pari-mutuel ticket for the pick four pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the four races comprising the pick four except for such refunds on pick four tickets as required by this regulation, and no person shall disclose the number of tickets sold in the pick four pool or the number or amount of tickets selecting winners of pick four races until such time as the stewards have determined the last race comprising the pick four to be official. At the conclusion of the third of the four races comprising the pick four, the association may display potential distributions to ticket holders depending upon the outcome of the fourth race of the pick four.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

#### **§11619. Entry or Field**

A. Those horses constituting an entry or a field as defined within the rules of racing shall race in any pick four race as a single wagering interest for the purpose of the pick four pari-mutuel pool calculations and payouts to the public. A scratch after wagering has begun of any part of an entry or field selection in such race shall have no effect with respect to the status of such entry and/or field as a viable wagering interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

**§11621. Scratches and Non-Starters**

A. At anytime after wagering begins on the pick four pool should a horse, entire betting entry or field be scratched, excused or declared a non-starter in any pick four race, no further tickets selecting such horse, betting entry or field shall be issued, and wagers upon such horse, betting entry or field, for purposes of the pick four pool shall be deemed wagers upon the horse, betting entry or field upon which the most money has been wagered in the win pool at the close of win pool betting for such race. In the event of a money tie in the win pool, the tied horse, betting entry or field with the lowest running number, as designated by the official racing program, shall be designated as the favorite for substitution purposes. For the purpose of this Section, when horses are prevented from starting by any malfunction of the starting gate itself they shall be considered as having been excused by the stewards. After close of betting, there shall be no refund, except as provided in §11611 or §11613.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

**§11623. Display**

A. These rules shall be prominently displayed in the betting area of the association conducting the pick four.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

**§11625. Unforeseen Circumstances**

A. Should circumstances occur which are not foreseen in these rules, questions arising thereby shall be resolved by the association and/or commission in accordance with general pari-mutuel practices. Decisions regarding distribution of the pick four pools shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 27:

The domicile office of the Louisiana State Racing Commission is open from 8:30 a.m. to 5 p.m. and interested parties may contact Charles A. Gardiner III, executive director, or C.A. Rieger, assistant director, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through December 10, 2001, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Claiming Rule**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no anticipated costs or savings to state or local governmental units associated with these rules, other than those one-time costs directly associated with the publication of these rules.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is estimated to be a minimal positive effect on revenue collections of state and local governmental units associated with this proposed rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This action benefits horse owners by allowing them to claim up to two horses per race instead of only one.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment as a result of the proposed rule.

Charles A. Gardiner, III  
Executive Director  
0112#119

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Office of Women's Services**

Domestic Violence Projects (LAC 4:VII.1747 and 1749)

In accordance with the Administrative Procedure Act R.S. 49:953(B), the Executive Director of the Governor's Office of Women's Services (OWS) is exercising the emergency provisions of the Administrative Procedure Act in adopting the following Rules for the implementation of domestic violence projects to further the goals of and the intentions of the federal Temporary Assistance to Needy Families Block Grant funds. This Emergency Rule facilitates expenditures of Temporary Assistance to Needy Families (TANF) funds authorized by Act 12 of the 2001 Regular Session of the Louisiana Legislature for support and implementation of the following domestic violence projects.

1. Outreach services for rural victims to include advocacy, crisis intervention, legal advocacy and specific services for children. This is a rural community-organizing project with the goal to establish self-sustaining services.

2. Services for children in family violence shelters/programs to include playgroups, parenting groups, individual intakes, evaluations and safety plans.

3. Training on Domestic Violence for DSS Employees. OFS and OCS employees will be provided with the education, methods and techniques needed to make safe, appropriate assessment of domestic violence victims.

4. Law enforcement training on domestic violence. Sheriffs, Police, and State Police officers will be trained as first responders in family violence situations.

The full text of this Notice of Intent may be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Domestic Violence Projects**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The total cost to state government is \$4,000,000 in FY 01-02 as a result of the TANF (Temporary Assistance for Needy

Families) funding received from DSS for Domestic Violence. This funding is anticipated to be available only for FY 01-02.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on state and local government revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Programs are designed to help domestic violence survivors and their children with immediate needs for safe and secure shelter, counseling, outside resources, etc. Women and children gain from services and by having opportunities for increasing personal growth and developing skills necessary for self-sufficiency and independence in an environment free from abuse.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Effect on competition and employment is not applicable for this project.

Vera Clay  
Executive  
0112#081

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Real Estate Commission**

Advertising (LAC 46:LXVII.2501 and 2515)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Real Estate Commission has initiated procedures to amend LAC 46:LXVII.Chapter 25. The amendment establishes standard information to be included in all advertising by a real estate licensee and requires all trade names used by licensee, registrants, or certificate holders in advertising to be a clearly distinguished entity from that used by other licensees, registrants, or certificate holders.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXVII. Real Estate**

**Chapter 25. Advertising**

**§2501. Advertisements**

A. All advertising by any licensee shall include the phone number and the identity of the listing broker or firm through the use of the identical name under which the listing broker or firm is licensed or a registered trade name that is a clearly identifiable entity which will distinguish the listing broker or firm from other licensees, registrants, or certificate holders.

B. Any trade name used by a licensee, registrant or certificate holder in advertising shall be a trade name that is a clearly identifiable entity that will distinguish itself from other licensees, registrants or certificate holders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

**§2515. Internet Advertising**

A. - C.1 ...

2. the name of the licensed broker or agency listed on the license of the salesperson or associate broker;

3. the city, state and country in which the broker's main office is located;

C.4.- D.1. ...

2. the name of the licensed broker or agency listed on the license of the salesperson or associate broker;

3. the city, state and country in which the broker's main office is located;

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:43 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

Interested parties are invited to submit written comments on the proposed regulations through January 20, 2002, 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.

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 December 20, 2001 *Louisiana Register*:

The proposed Rules have no known impact on family formation, stability, or autonomy.

Julius C. Willie  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Advertising**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings associated with the proposed Rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections. Revenue collections will still be determined by the number of applicants and the time frame within which their licenses, certificate, or registration is obtained and/or renewed.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Real estate licensees, registrants, and certificate holders may be required to modify current advertising; however, there is no way to estimate cost in that the size of the firm and the extent to which the advertising is used will vary. The proposed language is designed to benefit both the general public and the real estate industry by providing the ability to better determine for whom and/or with whom one is working in a real estate transaction.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is possible that the proposed language could impact competition among licensees as it relates to the manner in which they currently advertise; however, there is no way in which to determine this.. There is no estimated effect on employment.

Julius C. Willie  
Executive Director  
0112#061

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Real Estate Commission**

Branch Office (LAC 46:LXVII.2301)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the 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.Chapter 23. The amendment requires all branch offices to be under the direct supervision of a sponsoring, qualifying, or affiliated broker and establish the duties and penalties associated therein.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LLVII. Real Estate**

**Chapter 23. Branch Offices**

**§2301. Branch Office**

A. ...

B. Every branch office shall be under the direct supervision of a sponsoring, qualifying, or affiliated broker who shall be designated in writing as the branch office manager. A copy of the designation shall be submitted to the commission within five days following the date of the original designation or any changes thereto.

C. While supervising a branch office, a sponsoring, qualifying, or affiliated broker has all the duties of and is subject to the penalties applicable to a sponsoring broker. This does not relieve the sponsoring broker of the ultimate responsibility of the branch office operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

Interested parties are invited to submit written comments on the proposed regulations through January 20, 2002, 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.

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 December 20, 2001 *Louisiana Register*:

The proposed Rules have no known impact on family formation, stability, or autonomy.

Julius C. Willie  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Branch Office**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings with the proposed Rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections. Revenue collections will still be determined by the number of applicants and the time frame within which their license, certificate, or registration is obtained and/or renewed.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed language requires a real estate branch office to be under the direct supervision of a licensed broker. There are no estimated costs and/or economic benefits associated with this Rule in that the sponsoring broker may appoint him/herself as branch office manager.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no significant net effect on competition and employment.

Julius C. Willie  
Executive Director  
0112#059

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Real Estate Commission**

Change of Licensing Status (LAC 46:LXVII.1507)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Real Estate Commission has initiated procedures to amend LAC 46:LXVII.Chapter 15. The amendment defines the terms and conditions under which the post licensing education requirement must be completed by inactive licensees in order to transfer a license to active status.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXVII. Real Estate**

**Chapter 15. Transfers and Terminations**

**§1507. Change of Licensing Status**

A. - B. ...

C. Any licensee transferring to inactive status without fulfilling his/her post licensing requirement will be required to complete the 30-hour post licensing course prior to transferring his/her license to active status.

D. The 30-hour post licensing course can be used to satisfy the continuing education or a portion of the continuing education required for transfer to active status as follows:

1. one to three years of inactive status C30 hours of post licensing in lieu of the required 20 hours of continuing education. Any licensee remaining in the inactive status for more than one year will also be required to complete a four-hour continuing education course covering the Louisiana Real Estate License Law and Commission Rules and Regulations within one-year prior to the date of the transfer to active status;

2. three to five years of inactive status C30 hours of post licensing and at least 10 hours of continuing education that includes a four-hour course covering the Louisiana Real Estate License Law and Commission Rules and Regulations. This four-hour course must be completed within one year prior to the date of the transfer to active status;

3. more than five years of inactive status C30 hours of post licensing and at least 50 hours of continuing education that includes a four-hour course covering the Louisiana Real Estate License Law and Commission Rules and Regulations. This four-hour course must be completed within one year prior to the date of the transfer to active status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:41, (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

Interested parties are invited to submit written comments on the proposed regulations through January 20, 2002 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.

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 December 20, 2001 *Louisiana Register*:

The proposed rules have no known impact on family formation, stability, or autonomy.

Julius C. Willie  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Change of Licensing Status

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings associated with this Rule.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections. Revenue collections will still be determined by the number of applicants and the time frame within which their license, certificate, or registration is obtained and/or renewed.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits associated with this Rule. The proposed language serves as an extension of the education requirements established by R.S. 37:1437.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no significant net effect on competition and employment.

Julius C. Willie  
Executive Director  
0112#058

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Office of the Governor Real Estate Commission

Franchise Operations (LAC 46:LXVII.4501)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the 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.Chapter 45. The amendment requires all franchisors and franchisees to use a name or trade name that can be clearly distinguished from those used by other franchisors and franchisees.

### Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXVII. Real Estate

#### Chapter 45. Franchise Operations

#### §4501. Registration of Franchise Name

A. ...

B. Any name or trade name used by a franchisor or franchisee shall be a name or trade name that is a clearly identifiable entity that will distinguish itself from other franchisors or franchisees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

Interested parties are invited to submit written comments on the proposed regulations through January 20, 2002 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.

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 December 20, 2001 *Louisiana Register*:

The proposed Rules have no known impact on family formation, stability, or autonomy.

Julius C. Willie  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Franchise Operations**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs or savings associated with the proposed Rules.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated effect on revenue collections. Revenue collections will still be determined by the number of applicants and the time frame within which their license, certificate, or registration is obtained and/or renewed.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed language is designed to benefit both the general public and the real estate industry by providing the ability to better determine for whom and/or with whom one is working in a real estate transaction. Present language provides no means in which to clearly distinguish between individual licensees. This omission has created a circumstance whereby individual brokers who are affiliated with a franchise organization may conduct real estate activities in the same trade name. There is no way to estimate cost in that the size of the firm and the extent to which advertising is used will vary.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is possible that the proposed language could impact competition among licensees as it relates to the manner in which they currently advertise; however, there is no way to determine this. There is no estimated effect on employment.

Julius C. Willie  
Executive Director  
0112#062

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Real Estate Commission**

Post Licensing Education Eligibility of Courses, Vendor Advertisement, and Continuing Education on an Individual Basis (LAC 46:LXVII.5515, 5535, and 5539)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the 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.Chapter 55. The amendments are relative to real estate post licensing and continuing education vendors and serve to (1) require that post licensing courses be open to all licensees; (2) prohibit salesperson prelicensing educational credit for attendance at continuing education and/or post licensing courses; (3) allow broker prelicensing credit for attendance at certain continuing education and/or post licensing courses; and (4) remove the mandatory vendor code number from real estate school advertising guidelines.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXVII. Real Estate**

**Chapter 55. Real Estate Post Licensing and Continuing Education Vendors**

**§5515. Eligibility of Courses**

**A. Post Licensing**

1. Approved post licensing courses must be open to all licensees subject to post licensing requirements, regardless of broker affiliation. Each course acceptable for credit toward fulfillment of the 30-hour post licensing requirements for salespersons or brokers must be a minimum of 4 hours in length and require passage of an examination on course contents as conditions for receiving a post licensing certificate.

**A.2. - 3. ...**

4. Approved real estate schools shall not grant prelicensing educational credit to students enrolled in a salesperson prelicensing educational course for attendance at any continuing education and/or post licensing education course(s) presented by the school for real estate licensees.

5. Approved real estate schools, which present broker prelicensing educational courses separate from salesperson prelicensing courses, may request approval from the commission for continuing education or post licensing credit for real estate licensees, if the course meets applicable post licensing and/or continuing education requirements.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1431 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

**§5535. Advertisement**

A. All advertisements by approved vendors shall state the exact name of the vendor as registered with the commission.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1431 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

**§5539. Post Licensing and Continuing Education on an Individual Basis**

**A. - B. ...**

C. The commission may approve, on a limited basis, courses offered by entities not registered as approved vendors with the commission. Such approvals may be granted to no more than three specific locations per approval, per non-registered vendor and shall be limited to two approvals per non-registered vendor within a one year period. Non-registered vendors requesting approval beyond this limit will be required to submit an application and receive approval as an approved vendor to be eligible to offer additional courses for post licensing and/or continuing education credit. Entities requesting approval under this provision shall comply with specific application and reporting procedures required by the commission.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1431 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59

(January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

Interested parties are invited to submit written comments on the proposed regulations through January 20, 2002 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.

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 December 20, 2001 *Louisiana Register*:

The proposed Rules have no known impact on family formation, stability, or autonomy.

Julius C. Willie  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Post Licensing Education Eligibility of  
Courses, Vendor Advertisement, and Continuing  
Education on an Individual Basis**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There are no estimated implementation costs or savings associated with the proposed Rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no estimated effect on revenue collections. Revenue collections will still be determined by the number of applicants and the time frame within which their license, certificate, or registration is obtained and/or renewed.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The proposed language is considered housekeeping in nature and serves to further define and interpret the existing language. There are no estimated costs and/or economic benefits associated with this Rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no significant net effect on competition and employment.

Julius C. Willie  
Executive Director  
0112#064

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT  
Office of the Governor  
Real Estate Commission**

Real Estate Schools (LAC 46:LXVII.5305, 5323, and 5329)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the 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.Chapter 53. The amendments (1) update the content requirements for real estate prelicense courses; (2) establish the content and delivery methods for distance education courses; (3) provide for equivalent credit hours;

and (4) remove the mandatory certificate of authority number from real estate school advertising guidelines.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS  
Part LXVII. Real Estate  
Chapter 53. Real Estate Schools  
§5305. Prelicensing Courses Course Content and  
Delivery Method**

A. The commission shall require certified real estate schools to meet content requirements established by the commission in courses offered for salesperson and broker prelicensing credits.

B. ...

1. Real Estate 101C90 hour course in real estate principles/practices, Louisiana Real Estate License Law, Commission Rules and Regulations, Law of Agency and Civil Law pertaining to real estate licensees;

2. Real Estate 201C90 hour basic real estate fundamentals review for broker applicants;

3. Real Estate 202C30 hour course on Louisiana License Law, Rules and Regulations of the Commission, Law of Agency and Louisiana Civil Law pertaining to real estate licensees;

B.4. - C. ...

D. In addition to traditional in-class prelicensing course offerings, the commission may approve prelicensing courses offered through distance education delivery methods. As used in this Chapter, a distance education delivery method is defined as Internet-based instruction in which instruction takes place in other than a classroom setting, the instructor and the student are in physically separate locations, and interactive instructional methods are provided. The commission will approve only those courses through distance education delivery methods that are Internet-based instruction. Each course must meet the following standards:

1. be certified by the Association of Real Estate License Law Officials (ARELLO);

2. provide interactive instruction and teach to mastery;

3. provide a structured learning method that includes major units, clear objectives, modules of instruction, quantitative criteria, diagnostic assessments and remediations;

4. meet the content requirements and equivalent hours required by the commission for in-class presentations;

5. be offered by a Louisiana state certified real estate school;

6. college and university academic credit distance learning courses, if part of a college or university credit curriculum, must be individually approved by the commission, but may use course delivery methods not limited to the Internet.

E. Prior to submitting an application to the commission for approval of prelicensing education courses via Internet-based distance education, the school must apply for and receive approval of the method of course delivery for the proposed course from the Association of Real Estate License Law Officials (ARELLO). Only those courses that meet the commission's standards for course content and equivalent hours will be granted approval by the commission. After receiving approval from ARELLO, the school must file an



application with the commission and include the complete application as filed with ARELLO.

F. Loss of ARELLO certification for a prelicensing course offered via Internet-based education will automatically suspend commission approval of this course.

G. As used in this Chapter, interactive means the course structure and technologies promote active student involvement with the course content, including the ability to:

1. access or bypass optional content, if applicable;
2. submit questions or answer test items, and receive direct feedback; and
3. communicate with the instructor and/or other students on an immediate or reasonably delayed basis. Interactive instruction specifically excludes courses that only provide passive delivery of instructional content.

H. Colleges and university academic credit courses for distance learning will not be required to be ARELLO approved if part of a college or university curriculum. Any other distance learning courses offered to the general public outside of a curriculum program must be ARELLO approved.

I. As used in this Chapter, college or university is defined as one who offers at least a two-year degree approved by the Louisiana Board of Regents or equivalent regulatory body in any other state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

### **§5323. Certificates of Completion Classroom or Equivalent Hours**

A. Each real estate school shall provide an individual certificate of completion or comparable completion verification to each student only upon successful completion of a course of study. Such verification shall include student name, date of completion, course level, number of hours or equivalent hours completed, and shall be signed by the school director or an authorized designee.

B. - D. ...

E. Equivalent hours, as used in this Chapter, means the time required for the average student to master the required content in a prelicensing course of instruction through an approved Internet-based distance education course that is equivalent to the in-class prelicensing course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

### **§5329. School Advertising**

A. Advertising by certified schools shall be clear, concise and accurate. All advertisements shall be in the name of the real estate school as certified by the commission.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:55 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

Interested parties are invited to submit written comments on the proposed regulations through January 20, 2002 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.

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 December 20, 2001 *Louisiana Register*:

The proposed Rules have no known impact on family formation, stability, or autonomy.

Julius C. Willie  
Executive Director

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Real Estate Schools**

### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs or savings associated with the proposed Rules.

### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is possible that revenue collection could be affected by the proposed language; however, there is no way to estimate the possible impact. The impact, if any, will be determined by the number of course providers who choose to submit applications for course approval and the number of applications submitted.

### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Course providers who choose to offer distance learning programs may incur implementation and maintenance costs; however, there is no way to estimate these costs. The proposed language may result in an economic benefit to these course providers in that it expands the type of courses that can be offered to students. This program also provides the means in which to make courses readily available to the general public residing in less populated areas of the state, without the added expense of providing a local facility and an on-site instructor.

### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no significant net effect on competition and employment.

Julius C. Willie  
Executive Director  
0112#063

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Office of the Governor Real Estate Commission**

Trade Names (LAC 46:LXVII.1903)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the 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.Chapter 19. The amendment requires all names or trade names used by licensees, registrants, or certificate

holders in advertising and/or written or verbal communication to be a clearly distinguished entity from the names or trade names used by other licensees, registrants, or certificate holders.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part LXVII. Real Estate**

**Chapter 19. Names on Licenses, Registrations, and Certificates; Trade Names; Symbols; and Trademarks**

**§1903. Trade names**

A. ...

B. All names and/or trade names used by licensees, registrants or certificate holders in advertising and/or written or verbal communications of any kind shall be a name that is a clearly identifiable entity that will distinguish it from other licensees, registrants or certificate holders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:

Interested parties are invited to submit written comments on the proposed regulations through January 20, 2002, 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.

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 December 20, 2001 *Louisiana Register*:

The proposed Rules have no known impact on family formation, stability, or autonomy.

Julius C. Willie  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES  
RULE TITLE: Trade Names**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs or savings associated with the proposed Rules.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated effect on revenue collections. Revenue collections will still be determined by the number of applicants and the time frame which their license, certificate, or registration is obtained and/or renewed.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Real estate licensees, registrants, and certificate holders may be required to modify current advertising; however, there is no way to estimate in that the size of the firm and the extent to which advertising is used will vary. The proposed language is designed to benefit both the general public and the real estate industry by providing the ability to better determine for whom and/or with whom one is working in a real estate transaction.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is possible that the proposed language could impact competition among licensees as it relates to the manner in which they currently advertise; however, there is no way in which to determine this. There is no estimated effect on employment.

Julius C. Willie  
Executive Director  
0112#060

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Nursing  
and  
Board of Medical Examiners**

Authorized Practice  
(LAC 46:XLVII.4513)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S.49:950 et seq., that the Board of Nursing (board) and the Board of Medical Examiners pursuant to the authority vested in the board by R.S.37:918, R.S.37:919 intends to adopt rules amending the Professional and Occupational Standards pertaining to the authorized practice of Advanced Practice Registered Nurses. The proposed amendments of the rules are set forth below.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part XLVII. Nurses**

**Subpart 2. Registered Nurses**

**Chapter 45. Advanced Practice Registered Nurses**

**§4513. Authorized Practice**

A. - C.2 y

3. Definitions as used in this Part:

\* \* \*

*Collaborating Physician*Ca physician in active practice with whom the APRN has developed and signed a collaborative practice agreement for limited prescriptive and distributing authority and who holds a current, unencumbered, unrestricted and valid medical license issued or recognized by the Louisiana State Board of Medical Examiners and is in good standing with no pending disciplinary proceedings, and practices in accordance with rules of the Louisiana State Board of Medical Examiners. A collaborating physician shall have current hospital privileges prior to an APRN seeking hospital privileges at the same institution.

\* \* \*

*Joint Administration Committee or Committee*Cthe joint committee comprised of five members designated by the board and five members designated by the Louisiana State Board of Medical Examiners as follows:

i. one APRN practicing in a rural area, appointed by the board from a list submitted by the Louisiana Association of Nurse Practitioners;

ii. one APRN practicing in an urban area appointed by the board from a list submitted by Louisiana State Nurses Association;

iii. three registered nurses on the board appointed by the board;

iv. two physicians on the Louisiana State Board of Medical Examiners appointed by the Louisiana State Board of Medical Examiners;

v. one physician that collaborates with an APRN practicing in a rural area appointed by the Louisiana State Board of Medical Examiners from a list submitted by the Louisiana State Medical Society;

vi. one physician that collaborates with an APRN practicing in an urban area appointed by the Louisiana State Board of Medical Examiners from a list submitted by the Louisiana State Medical Society;

vii. one physician that collaborates with an APRN appointed by the Louisiana State Board of Medical Examiners from a list submitted by the Louisiana Medical Association.

\* \* \*

*Under Physician Direction* the limited prescriptive authority as approved by the Joint Administration Committee and demonstrated in the collaborative practice agreement as provided for in R.S. 37:913(9). Physician direction of the APRN is essential and implies that there is informed concurrence of the limited prescriptive authority actions of the APRN, in accordance with written clinical practice guidelines in existence between the collaborating physician and the APRN. Although physician direction shall not be construed in every case to require the physical presence of the collaborating physician, he shall be within a reasonable distance to provide timely response to medical emergencies and he and the APRN must have the capability to be in contact with each other by telephone or other telecommunications devices. Reasonable distance implies that the collaborating physician is within the local area of the APRN's practice site or sites and is not attending an educational program or on vacation in another state or country.

\* \* \*

4.a. - d. ¶

i. 500 hours of clinical practice as a licensed APRN within the last 6 months in the clinical specialty for which the applicant was educationally prepared as an APRN immediately prior to applying for limited prescriptive and distributing authority; practice in another state as a licensed APRN may be accepted to meet this requirement;

ii. successful completion of a minimum of 36 contact hours of education in advanced pharmacotherapeutics obtained as a component of a formal educational program preparing registered nurses for advanced practice or continuing education programs for advanced practice, approved by the board, within the 4-year time period immediately prior to the date of initial application for prescriptive and distributing authority with at least 12 hours having been obtained within two years prior to application. The APRN shall submit the continuing education advanced pharmacotherapeutics curriculum to the board for review and approval. The APRN shall obtain at least 2/3 of the required pharmacotherapeutic hours by attending continuing education programs and may obtain 1/3 of the required pharmacotherapeutic hours by non-lecture programs, such as computer assisted instruction and/or self-study accredited by a national professional accrediting organization approved by the board. Continuing Medical Units may be used as continuing education provided that the

offering documents the number of advanced pharmacotherapeutic hours in the educational offering. In order for the continuing education course to be approved by the board, the course shall include:

4.d.i.(a) - v.(c). ¶

(i). is available by telephone or direct telecommunications for consultation, assistance with medical emergencies, or patient referral; in the absence of the collaborating physician the following shall apply:

[a]. the back-up physician or physicians shall be in good standing and approved by the medical board and review and sign the collaborative practice agreement;

[b]. in the event that the collaborating physician fails to name a back-up physician, the collaborative practice agreement shall clearly state that the APRN will not prescribe in the absence of the collaborating physician;

4.d.v.(c).(ii) - (e). ¶

vi. the committee shall develop guidelines extending or modifying the requirements of "under physician direction", as defined in LAC 46: XLVII.4513.C.3, as well as the requirements of LAC 46:XLVII.4513.C.4.d.v. (c), for an APRN who is employed by or who contracts with the Louisiana Department of Health and Hospitals' Office of Public Health to specifically provide family planning, Human Immunodeficiency Virus ("HIV") infection or sexually transmitted disease treatment or services and Rural Health Clinics.

4.d.vii. - b. ¶

c. An APRN who is granted limited prescriptive authority shall not prescribe or distribute any controlled substance as defined, enumerated or included in federal or state statutes or regulations, 21 CFR 1308.11-15., R.S. 40:964, or any substance which may hereafter be designated a controlled substance by amendment or supplementation of the cited regulations and statute. The committee may authorize an APRN with limited prescriptive authority to prescribe or distribute controlled substances on an individual practice basis. An APRN who is so authorized shall provide their Drug Enforcement Administration registration number on all written prescriptions and be furnished on all oral prescriptions and shall comply with all scheduled drug prescription requirements in accordance with LAC 46:LIII.3531, Schedule Drug Prescription Requirements.

i. An APRN who is granted limited prescriptive authority may request approval of the Joint Administration Committee to prescribe and distribute controlled substances to the extent expressly authorized by the APRN's collaborating physician provided that:

(a). the APRN has been approved by the Joint Administration Committee to prescribe and distribute noncontrolled substances;

(b). the APRN has been approved by the board to prescribe and distribute noncontrolled substances;

(c). the APRN has practiced with limited prescriptive and distributing authority with the same collaborating physician in the APRN's licensed category and area of specialization for 500 hours immediately preceding the initial request and 160 hours of collaborative practice for each additional request;

(d). the APRN's application, provides to the satisfaction of the Joint Administration Committee, an

identified need for controlled substances within the patient population served by the collaborative practice;

(e). controlled substances utilization is expressly contained in the collaborative practice agreement, which specifies the circumstances, limitations and extent to which such substances may be prescribed or distributed; and

(f). the collaborative practice agreement contains acknowledgment of responsibility by the collaborating physician to ensure that the controlled substance authority of an APRN is utilized in a manner that is consistent with any rule or regulation imposed upon his practice.

ii. Controlled substances which may be prescribed or distributed by an APRN shall be limited to Schedule III, IV and V and shall be limited to, consistent with, and exclusively within the parameters of the practice specialty of the collaborating physician and the APRN's licensed category and area of specialization. The committee may approve an APRN to prescribe certain drugs to treat Attention Deficit Disorder (ADD).

iii. An APRN granted authority to prescribe or distribute controlled substances shall not utilize such substances in connection with the treatment of:

(a). chronic or intractable pain, as defined in LAC 46:XLV.6515 - 6923;

(b). obesity, as defined in LAC 46:XLV.6901 - 6913; or

(c). oneself, a spouse, child or any other family member.

iv. Any APRN authorized to prescribe controlled substances shall provide to the Board a copy of his or her Louisiana Controlled Dangerous Substance permit and Drug Enforcement Administration registration number prior to prescribing or distributing controlled substances. A place for an APRN to write their DEA number, as well as the name, address and telephone number of the collaborating physician, shall be pre-printed on the prescription pad and a sample of the prescription shall be submitted to the board for approval prior to prescribing or distributing controlled substances.

d. ¶

e. Each year an APRN with limited prescriptive authority shall obtain six contact hours of continuing education in pharmacotherapeutics in their category and area of specialization. Documentation of completion of the continuing education contact hours required for prescriptive authority shall be submitted at the time of the APRN's license renewal. The APRN shall obtain at least 2/3 of the required advanced pharmacotherapeutic hours by attending continuing education and may obtain 1/3 of the required advanced pharmacotherapeutic hours by non-lecture offerings or Continuing Medical Education Units (CMEs) provided that the offering documents the number of advanced pharmacotherapeutic hours in the educational offering. In order for the continuing education program to be approved by the board, the program shall:

i. be provided by a board approved national certifying organization or provider approved by the board;

5.e.ii. - f. ¶

g. Prior to changes with the collaborating physician, or physicians or coverage physician, when applicable, the APRN shall notify the board in writing requesting approval of such changes. The board may approve changes in the practice site or sites when both the collaborating physician(s) and APRN has been previously approved by the Committee and all other requirements are met as set forth in these rules. The APRN shall notify the board in writing within thirty days of all changes regarding practice sites.

5.h. - 6. ¶

a. Receive and distribute free drug samples and other gratuitous medications supplied by drug manufacturers, other than controlled substances, that shall:

6.a.i. - 10. ¶

11. Reinstatement. AN APRN who has been approved by the Joint Administration Committee for limited prescriptive and distributive authority and who has ceased practicing limited prescriptive authority for more than 12 months may apply for reinstatement of such authority.

a. In the event that the time period is greater than 12 months but less than 4 years the APRN shall:

i. meet the requirements as set forth in LAC 46:XLVII.4513.4.a, b, and c.

ii. provide evidence of 6 contact hours of continuing education in pharmacotherapeutics for each 12-month period of non-prescribing in their category and area of specialization. The APRN shall obtain at least 2/3 of the required advanced pharmacotherapeutic hours by attending continuing education and may obtain 1/3 of the required advanced pharmacotherapeutic hours by non-lecture offerings or Continuing Medical Education Units (CMEs) provided that the offering documents the number of advanced pharmacotherapeutic hours in the educational offering. In order for the continuing education program to be approved by the Board, the program shall:

(a). be provided by a board approved national certifying organization or provider approved by the board;

(b). include content relevant to advanced practice nursing and the use of pharmacological agents in the prevention of illness, and the restoration and maintenance of health.

b. In the event that the time period is greater than four years the APRN shall meet the requirements as set forth in LAC 46:XLVII.4513.4.a., b., c., and d.ii.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.(12), and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended by the Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996), LR 25:1245 (June 1999), amended by the Board of Nursing, LR 27:727 (May 2001), amended by the Board of Nursing and the Board of Medical Examiners LR 28:

#### **Family Impact Statement**

The Louisiana State Board of Nursing hereby issues this Family Impact Statement: the proposed rule related to the Board's appointing authority will have no known impact on family formation, stability, and autonomy, as set forth in R.S.49:972.

Interested persons may submit written comments on the proposed rules to Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 North Causeway Boulevard, Suite 501, Metairie, LA, 70002. The deadline for receipt of all written comments is 4:30 p.m. on November 9, 2001.

Barbara L. Morvant  
Executive Director  
and  
John Bobear  
Interim Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Authorized Practice**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that no additional staff will be needed to implement these rule changes, although the changes will increase the current staff workload. Additional operating expenses including printing and postage will be required, as well as the addition of two members to the Joint Administration Committee.

The anticipated costs for the FY 2001/2002 will be \$4,992 (\$600 for postage and printing and estimated travel for flight costing \$250 x 6 approximate meetings per year x 2 additional members of JAC = \$3,000 + meals @ \$36/day x 6 meetings per year x 2 additional members = \$432 + lodging @ \$80/day x 6 meetings per year x 2 additional JAC members = \$960/year, with a total of \$4,992 for FY 2001/2002). At an estimated addition of \$100/year for inflation of travel costs, the estimated total cost for FY 2002/2003 is \$5,092 and \$5,192 for FY 2003/2004.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The number of advance practice registered nurses who requested a change in practice site average six each meeting. With six meetings per year, this equals to 36 APRNs who request a change in practice site. With the deletion of the \$25 Change of Site fee for APRNs who have collaborating physicians who are previously approved, this would equal to \$900 the first year. Taking into account the increasing numbers of APRNs who request Limited Prescribing and Distributing Authority, the amount was increased by \$100 per year.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Those individuals with limited prescriptive and distributive authority who request and are granted privileges to prescribe controlled substances within their collaborative practice agreement with their physician will expand their scope of practice, thus benefiting these individuals. Furthermore, the deletion of the \$25 fee for a change in practice site will decrease these individuals operating costs.

The public will also benefit from the increased scope of the advanced practice registered nurse with prescriptive privileges who can prescribe controlled substances within their collaborative practice agreement with their physician by decreased wait time for the physician and availability of the advanced practice registered nurse.

These applicants will be required to demonstrate meeting the same educational requirements and certification requirements as accepted by the Board for limited prescribing and distributing authority and will have to be approved by the Joint Administrative Committee on an individual basis.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

An estimate of the impact of the proposed action on competition and employment is unknown at this time. However, it is anticipated that 50 percent of the 327 APRNs who have Limited Prescriptive and Distributing Authority will apply for the privileges. It is assumed that the expanded scope of practice for these persons will result in an increase in the numbers and medical conditions of clients they can treat; thereby resulting in increased employment and job security for those persons with Controlled Substance privileges.

Barbara L. Morvant  
Executive Director  
0112#028

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Identification of Hearing Impairment in Infants  
(LAC 48:V.Chapter 22)**

In accordance with the applicable provision of the Administrative Procedure Act, R.S. 49:950 et seq., and the Identification of Hearing Impairment in Infants, R.S. 46:2261 et seq., notice is hereby given that the Department of Health and Hospitals, Office of Public Health intends to revise procedures for the screening of infants to identify hearing impairment, testing of all newborns and referral of newborns failing screening for appropriate follow-up services and ensure proper information distribution to parents, primary care physicians and interested groups.

Louisiana's Act 417 of 1992 mandated hearing screenings of all high-risk infants and rules and regulations were adopted to implement the program in accordance with the Administrative Procedure Act. On July 1, 1999, Act 417 was amended by Act 653 of the 1999 Regular Legislative Session to require universal hearing screening of all newborn infants, rather than screening of only those infants with high-risk factors.

It is necessary that new Rules be adopted to allow for the proper statewide implementation of universal newborn hearing screening as required by the amended legislative provisions as included in Act 653 of the 1999 Regular Legislative Session.

**Title 48  
PUBLIC HEALTH GENERAL  
Part V. Preventive Health Services  
Subpart 7. Maternal and Child Health Services  
Chapter 22. Identification of Hearing Impairment in Infants  
§2201. Definitions**

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*Program*Cthe Hearing, Speech and Vision Program within the office.

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**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:2261-2267.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 19:1430 (November 1993), amended LR 28:

**§2203. Program for Identification of Hearing Loss in Infants**

A. The program will include the following.

1. The office will require a newborn hearing screening report to be used by the hospitals to report hearing screening results and risk status on all newborns to the risk registry. This form will include written material regarding hearing loss and a toll-free hotline phone number (V/TDD).

2. - 6. ...

B. Implementation

1. All birthing sites in Louisiana must be in compliance with this act by April 1, 2002.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2261-2267.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 19:1431 (November 1993), amended LR 28:

**§2205. Procedures for Hospitals**

A. Hospitals shall complete the newborn screening report on all live births.

B. Hospitals shall conduct hearing screening on all newborn infants before discharge.

C. - D. ...

E. If an infant is born in one hospital and transferred to one or more hospital(s), the last hospital to which the infant is transferred before being discharged into the care of a parent, or guardian for purposes other than transport, must complete the newborn infant hearing report and perform the hearing screening.

F. If an infant is to be placed for adoption and is to be transferred to another hospital for adoption, the hospital at which the infant is born is to complete the newborn hearing screening report and perform the hearing screening (unless §2205.E above applies). The parent copy of the newborn hearing screening report shall be sent to the guardian.

G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2261-2267.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 19:1431 (November 1993), amended LR 28:

**§2207. Procedures for Other (Alternative) Birthing Sites**

A. ...

B. Hearing screening shall be performed at the alternative birthing site before discharge. The results of the screening shall be recorded on the newborn hearing screening report.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2261-2267.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 19:1431 (November 1993), amended LR 28:

**§2209. Hearing Screening Procedures**

A. Personnel. Hearing screening will only be performed by:

1. board eligible or board certified physicians with special training in auditory brainstem response testing and/or otoacoustic emissions and in infant hearing testing. Evidence of training must be submitted to the office;

2. audiologists licensed by the Louisiana Board of Examiners for Speech Pathology and Audiology with special training in auditory brainstem response testing and/or

otoacoustic emissions testing and in infant hearing testing. Evidence of training must be submitted to the office;

3. ...

B. Test Procedures. The following test procedures are the only acceptable methods for use in infant hearing screening:

1. Auditory Brainstem Response (ABR) either automated or non-automated;

2. Evoked Otoacoustic Emission (EOAE);

3. test levels, failure criteria and all other test parameters are set by protocols established by the office, upon recommendations of the State Advisory Council.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2261-2267.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 19:1431 (November 1993), amended LR 28:

**§2210. Referral and Follow-Up**

A. Referrals for infants failing screening must be made to the infants primary care physician and a licensed audiologist within seven days of discharge by the birthing center.

B. Appropriate protocols and standards for diagnostic evaluations to determine hearing loss shall be established by the office, upon recommendations of the State Advisory Council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2261-2267.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

**§2213. Risk Registry and Tracking**

A. - C. ...

D. The office will develop a system for reporting diagnosis of hearing loss by primary health care providers, audiologists and parents for children up to age 5.

E. - F. ...

G Non-Compliance And Penalties

1. The State Advisory Council shall recommend to the office methods of monitoring hospitals, physicians and audiologists for compliance with all sections of this statute.

2. The State Advisory Council shall report any hospital, physician or audiologist found to be non-compliant to the appropriate licensing, regulatory or other appropriate agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2261-2267.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 19:1432 (November 1993), amended LR 28:

**Family Impact Statement**

The proposed revisions to LAC 48:V.Chapter 22 will have a significant positive impact on families in Louisiana as indicated.

1. The Effect on the Stability of the Family. Economically, this Rule will have a beneficial effect on the stability of patients and families served, as this change ensures the early identification of hard of hearing and deaf individuals. This will allow for appropriate early intervention, ideally initiated by 6 months of age, that has been shown to result in normal early developmental profiles when children reach kindergarten. A normal early development can result in increased earning power, achievement of higher education status and more independence in daily activities. Early identified hard of

hearing children can be mainstreamed into regular school programs, often eliminating the need for costly special instruction, services and therapy.

Through community-based, family-centered care and the development and availability of local referral sources, children will be able to remain in their communities and receive care and services close to home, contributing to the strengthening of family ties and stability.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule change will ultimately allow parents of hard of hearing and deaf children more options and opportunities for educational choices for their children. Early identification of hard of hearing children has been shown to lead to normal developmental profiles in children, allowing them to be mainstreamed into regular school programs, often eliminating the need for resources services, speech/language/hearing therapy and training and other special education support and services. Parents' rights and decisions making are retained regarding approval and consensus with any type of academic placement and choice of special education services.

3. The Effect on the Functioning of the Family. This Rule will positively effect family functioning that has been previously and negatively impacted by late identification and the subsequent need for costly educational placement, reduced earning capacity, and delays in speech, language, social and academic skills. Through the development of a follow-up system of care, parents will be provided with community-based, family centered care and referral sources and be able to remain, and function, in their communities, receiving any care and services close to home.

4. The Effect on Family Earnings and Family Budget. This Rule change will positively effect the earnings and family budget of effected families by allowing for the education of their children in regular school programs and often eliminating the need for costly support services, such as speech and language therapy, aural (auditory) habilitation, therapy and training and other special education services. It will allow families to have more disposable income available for their own use by reducing expenditures for the above services. In addition, many families will significantly benefit from increased opportunities and employment potential leading to increased earning power and independent functioning for their children.

5. The Effect on the Behavior and Personal Responsibility of Children. Early identification of hearing impairment and the subsequent appropriate early intervention have been shown to significantly improve the social, academic, emotional and language abilities of hearing impaired children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. This function as contained in the proposed Rule is required to be coordinated and implemented by the Office of Public Health, with input, guidance and suggestions from a State Advisory Council appointed by the governor. The State Advisory Council requires the membership of parents of children who are deaf or hard of hearing, thereby consistently providing the input of families into the design and implementation of the program. The program is developing regional and local support/referral systems to

serve the families in a comprehensive, coordinated, culturally competent, seamless manner and system of care, with support and guidance provided to families as needed.

A public hearing on the adoption of this proposed Rule change will be held on January 28, 2002, at 1:30 p.m. at 325 Loyola Avenue, Room 511, New Orleans, LA 70112. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Interested persons may also submit written comments to Linda Pippins, Children's Special Health Services Administrator, 325 Loyola Avenue, Room 607, New Orleans, LA 70112. She is responsible for responding to inquires regarding this adoption. The deadline for the receipt of all written comments is 4:30 p.m. on the next day following the public hearing as scheduled.

David W. Hood  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Identification of Hearing Impairment in Infants

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The agency will incur a one time cost for publication of the required Notice of Intent and final Rule in the *Louisiana Register*. Legislation in 1993 mandating this program was passed without funding but the program was implemented in 1994 with current staff and funding. Recent federal grants have added 100 percent federal funds for program improvements.

The early identification of hearing loss and subsequent initiation of early intervention will save state and local governments significant funds in special education, rehabilitation and vocational costs in future years.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that 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)

In-hospital costs associated with implementing this Rule will be minimal because birthing hospitals are currently required to provide newborn hearing screening for high risk infants. Birthing hospitals already have appropriate equipment for testing. Approximately 50 percent of hospitals currently comply with universal screening voluntarily and will incur no further costs. The remaining hospitals may experience some increased costs for the time that it takes personnel to perform the screening on additional newborns. These costs will be different for each facility depending upon the number of births occurring at the hospital. Costs to families for performing these tests will be the same, they will just occur earlier in the child's life rather than later.

Economic benefits to hard of hearing and deaf persons and their families are great when the impairment is identified before 6 months of age. These include increased earning power, achievement of higher education status, and more independence in daily activities. Research has shown that children whose hearing losses are identified before 6 months of age and receive appropriate early intervention have developmental profiles within the normal range when they reach kindergarten. Many children can then be mainstreamed

into regular school programs saving funds for costly special education services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will be increased as a result of the early identification of hearing loss in affected individuals. These individuals will have increased opportunities and potential for employment.

Madeline W. McAndrew  
Assistant Secretary  
0112#107

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**

Rural Health Clinics Licensing Standards  
(LAC 48:I:Chapter 75)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to amend the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is amended in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Act 1333 of the 1997 Louisiana Legislative Regular Session enacted R.S. 40:2197 relative to rural health clinics to: 1) authorize the Department of Health and Hospitals to license rural health clinics; 2) prohibit operation of a rural health clinic without a license; 3) require the Department to prescribe and publish minimum standards, rules, and regulations as necessary; 4) provide that licenses issued for rural health clinics are not transferable or assignable between persons, rural health clinics, or both; 5) define the terms rural health clinic and mid-level practitioner; and 6) provide for related matters. The Bureau adopted a rule governing the licensing and regulation of rural health clinics (*Louisiana Register, Volume 25, Number 10*). In order to ensure that these licensure standards continue to protect and promote the health and welfare of consumers of rural health clinic services, the Department proposes to amend designated provisions of the October 20, 1999 rule to provide clarification of the regulations.

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 October 20, 1999 rule to revise designated provisions of the regulations governing licensure of rural health clinics.

**Title 48**

**Public Health General**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 75. Licensing of Rural Health Clinics**

**§7501. Definitions and Acronyms**

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*Professional Services* documented on-site visits at the clinic or in locations other than the clinic, such as the patient's home, for the purpose of providing professional level skilled services. *Professional Services* include physical assessment, any of the waived clinical laboratory tests and treatment/education for the illness diagnosed when provided by a qualified professional as defined below.

*Qualified Professionals* One of the following professionals qualified to provide services:

- a. Physician Doctor of Medicine (MD);
- b. Advanced Practice Registered Nurse (APRN);
- c. Licensed Physician's Assistant (PA);
- d. Licensed Social Worker Licensed Clinical Social Worker (LCSW);
- e. Licensed Clinical Psychologist (LP).

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Secretary Secretary of the Department of Health and Hospitals.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

**§7503. Licensing**

A. General Provisions. Rural Health Clinics shall:

1. ...
2. meet and maintain compliance with all current DHH minimum licensing standards;
3. - 4. ...
5. The rural health clinic license shall be posted within public view in a conspicuous place within the facility.

B. - B.2.a. ...

b. Complete and submit an original rural health clinic licensing application.

B.2.c. - C.2.d. ...

D. Informal Dispute Resolution. Following each survey, the provider will have one opportunity to question citations of deficient practice through an informal dispute resolution process. Notice is sent with each statement of deficiencies and provides instructions on how to request the informal dispute resolution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

**§7505. Denial, Revocation, or Non-Renewal of License**

A. The Secretary of DHH may deny an application for a license, refuse to renew a license or revoke a license when an investigation reveals that the applicant or licensee is not in conformance with or in violation of the provisions of R.S. 40:2197, provided that in all such cases, the Secretary shall furnish the applicant or licensee 30 calendar days written notice specifying the reasons for the action.

B. A rural health clinic license may be denied, revoked, or non-renewed for any of, but not limited to, the following reasons:

1. failure to meet any of the minimum standards, rules and regulations as prescribed under R.S. 40:2197;
2. conviction of a felony, as shown by a certified copy of the applicant's record of the court of conviction, or if the applicant is a firm or corporation, on any of its members or



officers, or of the person designated to manage or supervise the facility; or if the supervisor of the facility is not reputable; or if the staff or a member of the staff is temperamentally or otherwise unsuited for the care of the patients in the facility. For the purposes of this Paragraph, *conviction of a felony* means and includes:

- a. conviction of a criminal offense related to that person's involvement in any program under Medicare or Medicaid, since the inception of those programs;
- b. conviction of a felony relating to violence, abuse and/or neglect of a person;
- c. conviction of a felony related to the misappropriation of property belonging to another person;
3. failure to comply with all federal, state and local laws;
4. failure of the facility to protect patients/persons in the community from harmful actions of the clinic employees, including but not limited to:
  - a. health;
  - b. safety;
  - c. coercion;
  - d. threat;
  - e. intimidation;
  - f. solicitation; and
  - g. harassment;
5. failure to maintain adequate staff to provide necessary services to current active patients;
6. failure to employ qualified personnel;
7. failure to remain fully operational at all times for any reason other than a disaster;
8. failure to submit fees, including but not limited to, annual renewal fee at least 30 days prior to the license expiration date;
9. failure to allow entry to the rural health clinic or access to any requested records during any state or federal survey;
10. cruelty to patients.

C. Any involuntary termination, failure to renew, or voluntary termination of the facility's license to avoid adverse action will automatically prevent the facility, the facility owners, professional staff, administrative staff, family members and others as appropriate from applying for a RHC license, or from owning or working with a rural health clinic, for at least one year. Persons who own 5 percent or more of a facility are considered owners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

#### **§7507. Changes/Reporting**

A. - B.3.c. ...

d. use of a contract mid-level practitioner instead of the employee for any period of time greater than 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

#### **§7509. Annual Licensing Renewal**

A. Department of Health and Hospital Responsibilities. It is the responsibility of DHH to:

1. send a letter of notification of license renewal to the facility approximately 45 days prior to expiration of the license;

2. conduct an annual survey to assure that the facility provides quality care and adheres to licensing requirements; and

3. make a determination and take appropriate action regarding licensing.

B. Rural Health Clinic Responsibilities. It is the responsibility of the RHC to:

1. notify DHH if the renewal letter is not received in a timely manner;

2. complete the licensing application and obtain and submit other required data; and

3. submit the appropriate license fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

#### **§7511. Notice and Appeal Procedures**

A. Administrative Appeal. In accordance with the Administrative Procedure Act, the facility may request an administrative appeal when notice is received of denial of initial license, denial of a license renewal or revocation of the license. The request for the administrative appeal must be submitted in writing to the Department of Health and Hospitals, Office of the Secretary, within 30 days of receipt of the notice of the adverse action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

#### **§7515. Voluntary Cessation of Business**

A. - A.2. ...

B. Expiration of License. Failure to renew a license prior to its expiration date shall result in non-renewal of the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

#### **§7517. Personnel Qualifications/Responsibilities**

A. - B.1.b. ...

2. Mid-level Practitioner. The mid-level practitioner shall be appropriately licensed and credentialed as either an advanced practice registered nurse (family nurse practitioner) or physician's assistant. The mid-level practitioner(s) shall be required to maintain Advanced Cardiac Life Support (ACLS) certification to assure his/her proficiency in accepted standards of emergency care. If a facility has a current written agreement with an advanced life support provider, who can provide care within 10 minutes, then the mid-level practitioner and/or physician are exempt from this required certification.

B.2.a. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

## §7519. Services

A. - A.2. ...

B. Diagnostic Services. The clinic must have the capacity to evaluate and make initial diagnoses on-site in order to refer the patient to the appropriate facility for treatment and/or more definitive diagnoses. RHCs shall, as a minimum, provide basic laboratory services essential to the immediate diagnosis and treatment of the patient. This includes:

1. chemical examinations of urine by stick or tablet method, or both (including urine ketones);
2. hemoglobin or hematocrit;
3. blood glucose;
4. examination of stool specimens for occult blood;
5. pregnancy tests; and
6. primary culturing for transmittal to a certified laboratory.

C. - C.1.c. ...

2. Emergency Care. The clinic shall maintain emergency equipment, medications and personnel to provide pre-hospital advanced cardiac life support until emergency transportation can arrive and assume care of those in need of services.

C.2.a - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

## §7521. Agency Operations

A. - A.2.d. ...

B. Agreements. Written agreements shall be clearly worded, dated, reviewed and signed by all parties. All agreements shall be updated as needed to reflect any changes in relationships, provision of services, or other pertinent information.

C. Operation Hours. A facility shall provide:

1. primary care services at least 36 hours per week. For rural health clinics located in parishes designated as priority access, mobile units and RHC's with low caseloads, the Department may waive such requirement if:

a. the RHC demonstrates to the satisfaction of the Health Standards Section of DHH that by providing primary care services less than 36 hours per week, patients are not denied access to care;

b. the Department determines that a waiver of the requirement will not endanger the health or safety of patients needing RHC services; and

c. a waiver granted by the Department is subject to annual review;

2. on-call qualified professional assistance for 24 hours per day, seven days per week;

3. appropriately qualified professional staff on duty during all hours of operation. Failure to do so will result in immediate adverse action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

## §7523. Procedural Standards

A. The following processes are required for rural health clinics in Louisiana:

1. Access to Care. Rural Health Clinics shall:

a. be in compliance with R.S. 40:2007 if the RHC is located within another health care provider.

A.1.b. - A.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:

## §7533. Advisory Committee

A. All members of the advisory committee shall be designated in writing and approved by the governing board. The advisory committee shall be composed of two medical professionals, and at least one consumer of services, not employed by the facility. However, facility staff should attend meetings.

A.1. - A.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197, 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 25:1846 (October 1999), amended LR 28:

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, January 29, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Rural Health Clinics Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact for SFY 2001-02, 2002-03, and 2003-04. It is anticipated that \$520 (\$260 SGF and \$260 FED) will be expended in SFY 2001-02 for the states 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 not impact federal revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will not have estimable costs and/or economic benefits for directly affected

persons or non-governmental groups. This proposed rule will protect the health and well being of rural health clinic patients by ensuring proper licensing standards for participating providers of these medically necessary services.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden  
Agency Head or Designee  
0112#113

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Labor Office of Regulatory Services

Private Employment Service (LAC 40:XV.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Labor, Office of Regulatory Services has initiated rulemaking procedures to promulgate amendments and changes to the Rules and Regulations governing the Private Employment Services regarding the administration of the functions of the department under the authority of R.S. 36:304(3).

#### Title 40

#### LABOR AND EMPLOYMENT

#### Part XV. Private Employment Services

#### Chapter 1. General Provisions

#### §101. Definitions

*Employment Service Manager* Can individual designated by the employment service to conduct the general management, administration and operation of a specified private employment service (PES) office.

*On-Site Consultant* Can individual designated by the employment service, to conduct the general management, administration and operation of a specified private employment service (PES) office, but does not carry the title of manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

#### §103. Operational Mandates

A. A licensee must file with the Assistant Secretary a bond written by a surety company authorized to do business in this state for each licensed office in the sum of \$5,000. The Beneficiary of said bond shall be the Assistant Secretary. An approved bond form (OOL-2) must be executed by the surety company in accordance with data requested on said form and the dates of the bond must coincide with the inclusive dates of the license. Only original bonds containing surety seal will be accepted.

B. A licensee must furnish the Office of Regulatory Services with its business telephone number.

C. A licensee shall at all times conspicuously post, in the main receiving area of his/her office, the current "original" private employment service license to operate.

D. A licensee shall at all times conspicuously post, in the main receiving area of his/her office, a current copy of his/her approved applicant schedule of fees printed in not less than 30-point bold face type.

E. A licensee shall at all times conspicuously post, in the main receiving area of his/her office, a Notice stating that Copies of the Rules and Regulations Governing Private Employment Services and any supplement thereto are available for inspection upon request.

F. Each licensed service must have an individual designated as the on-site manager for that location, or an on-site consultant who has been tested. No individual may be designated as a private employment service manager at more than one location. Each manager and/or on-site consultant shall have successfully passed the private employment service examination.

G. A licensee shall agree to make all records and data pertinent to placement, available to any Office of Regulatory Services Compliance Officers or officials upon request.

H. Prior to sending an applicant on a job interview, the employment service must have a job order from the employer granting permission to the service to submit applicants for a fee, if hired. Each job order must contain the following:

1. date;
2. employer name and address;
3. position description; and
4. approximate salary.

I. Individual documentation must be executed on each interview referral.

J. Any amended fee schedule must be filed with and approved by the Assistant Secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

#### §105. Limitation On Licensees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), repealed by the Department of Labor, Office of Regulatory Services, LR 28:

#### §107. Prohibited Conduct

A. No employment service, employment service manager, and/or consultant shall engage in the following conduct:

1. advertise or use letterheads, receipts, or other written or printed matter unless such materials contain the name of the employment service, as registered with and licensed by the assistant secretary;
2. require an applicant placed in an employer-fee-paid position to pay a fee of any kind;
3. permit an applicant to sign a power of attorney, promissory note, negotiable instrument, or assignment of wages in an amount exceeding the approved and posted fee;
4. no employment service licensee, manager or consultant shall use an alias or any other name in the course

and scope of their employment other than their legal name, unless registered with the Office of Regulatory Services within 30 days from the effective date of these rules. No such request for registration received after 30 days from the effective date of these rules will be considered;

5. charge or receive a fee from an applicant prior to the actual commencement of work on a job procured by the employment service, manager, or consultant, except that where an employed applicant accepts new employment after having signed a contract but fails to report to work on the new job and instead remains with his present employer, a fee not to exceed 20 percent of the fee for permanent employment on the new job may be charged.

6. other than as described in §107.E hereinabove, an employment service shall not receive a fee from an applicant who does not commence work on a job procured by the employment service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

### **§109. Application for License**

#### **A. Initial License**

##### **1. Forms Required to be Completed and Submitted**

a. OOL-1 Application. The facts specified in the application must be sworn and attested before a notary. All applications must be signed by the proposed licensee.

b. OOL-2 Bond Form. In the amount of \$5000 executed by a Surety Company licensed and authorized to do business in Louisiana. Each bond must bear a surety seal and contain licensee's name, private employment service business name, trade names, if applicable and physical location.

c. Corporations shall submit a certified copy of the Articles of Incorporation, which contains the gold seal from the Louisiana Office of Secretary of State.

d. Corporations registered outside of Louisiana must furnish an original certificate of authority to operate in Louisiana, which certificate is issued by the Louisiana Office of Secretary of State.

e. Partnerships shall submit a certified copy of the Articles of Partnership, which contains the gold seal from the Louisiana Office of Secretary of State. Licensee's name must be listed in the Articles of Partnership.

##### **2. Additional Requirements**

a. Three notarized statements from character references.

b. The proposed applicant's contract must be submitted and approved by the Assistant Secretary.

c. Licensees, managers, and/or on-site consultants must pass a written examination, administered by the Office of Regulatory Services, with a score of at least 80 percent.

d. Each proposed licensee must submit a resume detailing his/her business involvement during the preceding 10 years.

e. Each proposed licensee must submit a letter stating whether or not he/she has ever been convicted of a felony or misdemeanor. If he/she has been convicted, full particulars must be given including the offense, the date, the sentence and the court in which the proceeding occurred.

f. A license shall be required for each employment service operated or advertised.

g. Each licensee shall pay a \$300 investigation fee.

h. Services that are "Exclusively Employer Fee Paid" shall submit a notarized statement attesting to same.

i. License fee shall be \$200 per year for each location.

j. License fee for an out-of-state employment service which merely advertises in the state shall be the same as the fee for employment services located in Louisiana.

k. Every license issued shall remain in force until December 31 of year of issuance, unless such license has been revoked pursuant to the provisions of this law or the licensee submit a notarized request to cancel the license.

l. Each corporation must designate an individual, to be tested and to be the licensee. If the licensee leaves the corporation, it must designate a new individual to be licensed. If designated individual is not listed in the Articles of Incorporation, the Board of Directors must furnish a notarized letter attesting to the designated individual's position within the corporation or file an amendment to the articles.

m. Each partnership must designate at least one partner to be tested and to be the licensee. If the licensee leaves the partnership it must designate a new individual to be licensed. If designated partner is not listed in the Articles of Partnership, an amendment to the Articles of Partnership must be filed listing that individual's name.

#### **B. Renewal Licenses**

##### **1. Forms required to be completed and submitted:**

a. OOL-1 Renewal Application;

b. OOL-2 Bond Form (original only) executed by Surety Company or Continuation Certificate, (original only) from Surety Company, the period of coverage must correspond with the license year. Said bond form or continuation certificate must contain licensee's name, private employment service business name, trade name, if applicable and physical location;

c. beginning date of bond or continuation certificate must be January 1 of license year and expiration must be through December 31, of license year.

##### **2. Additional Requirements**

a. Licensees must submit their applicant contract for approval.

b. Services that are "Exclusively Employer Fee Paid" shall submit a statement affirming same.

c. Application for renewal must be received by the Office of Regulatory Services no later than the last business day of the calendar year for which the current license was issued.

d. The failure of any licensee who fails to timely renew a license shall require that the employment service office be closed.

e. Renewal fee shall be \$200 per year for each office location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

### **§111. Reporting Requirements**

#### **A. Address Change**

1. Any change in a licensed employment service's physical location must be reported in writing to the Office of Regulatory Services by the licensee(s) at least two weeks prior to such change.

2. A rider (original only) from the surety company affecting the new address must be submitted to the Office of Regulatory Services prior to such change.

3. Licensee(s) shall return to the Office of Regulatory Services the current original license for reissuance of updated address.

#### **B. Closure of Employment Service**

1. Licensee(s) shall notify the Office of Regulatory Services, in writing immediately upon closing an employment service location.

2. Licensee(s) shall return to the Office of Regulatory Services the current original license for proper cancellation.

#### **C. Change of Ownership**

1. Licensee(s) shall notify the Office of Regulatory Services of any change in ownership of employment service immediately. Such notification must be received 14 days prior to the actual sale.

2. Licensee(s) shall return current original license to the Office of Regulatory Services for proper cancellation.

3. Licensee(s) shall inform the Office of Regulatory Services of proposed new owner/owners' name (s) and address(es).

D. A private employment service license is not transferable and it will not authorize any individual other than the individual to whom it is issued, nor any place or business transacted under any name, nor physical location, other than that designated in the license.

#### **E. Change of Licensed Business Name**

1. Licensee(s) must notify the Office of Regulatory Services, in writing, when changing licensed business name, prior to name change.

2. Licensee(s) must furnish the Office of Regulatory Services, a rider (original) from the surety company covering the new name.

3. Licensee(s) shall return to the Office of Regulatory Services the current original license for reissuance of updated business name.

F. The Office of Regulatory Services will not license services with deceptively similar names.

#### **G. Change of Manager or on-site Consultant**

1. Licensee (s) must notify the Office of Regulatory Services in writing, immediately when changing manager or on-site consultant.

2. Licensee (s) shall furnish the Office of Regulatory Services with new manager's and/or on-site consultant's name.

3. Licensee(s) shall send \$100 fee for each exam administered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

### **§113. Examinations**

A. Each individual named as a private employment service licensee, and each individual named as a private employment service manager and each individual named as an on-site consultant, shall demonstrate sufficient knowledge of the private employment service law, rules and regulations by scoring at least 80 percent on a written examination.

B. The private employment service examination will be developed, administered and scored by the Assistant Secretary, Office of Regulatory Services, or his designee.

C. Each individual to whom the private employment service examination is administered shall pay to the Assistant Secretary a fee of \$100, which shall not be refundable under any circumstance.

D. Examinations will be given within 10 days from the date of request and may be administered at the Office of Regulatory Services' Administrative Office, Baton Rouge, Louisiana, or at any Office of Regulatory Services Field Office at the convenience of the party being tested.

E. Test results will be provided on the same day that the completed examination is received by the Private Employment Service Program Compliance Officer Supervisor for scoring.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

### **§115. Fees For Placement**

#### **A. Resume Preparation**

1. An employment service may prepare an applicant's job resume upon applicant's request at a cost not to exceed the fee set in R.S. 23:111.B(1)(b). The employment service shall furnish the applicant with a copy of the prepared resume at no additional cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

### **§117. Investigations**

A. The Assistant Secretary, upon receipt of a complaint or upon his own motion may initiate an investigation into any alleged violations of the Employment Service Law or of these rules and regulations promulgated thereunder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

### **§119. Revocation**

A. No new license shall be issued to any individual whose prior license has been revoked until the expiration of at least two years, and then only upon a proper showing that the reasons for the revocation have been corrected, that all other requirements for a license have been met, that the necessary examinations have been taken and passed, and that

all fees have been paid. The burden of proof shall be on the applicant.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:112.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

**§121. Enforcement Procedures**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:112.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), repealed by the Department of Labor, Office of Regulatory Services, LR 28:

**§123. Private Employment Services Contract**

A. Applicant Contract Date: \_\_\_\_\_

1. This contract is entered into by and between \_\_\_\_\_, hereinafter referred to as the applicant and, hereinafter referred to as the Employment Service.

2. Should applicant accept employment with an employer or subsidiary to which the employment service has referred within 12 months from date of referral, applicant agrees to pay for professional services in accordance with the schedule contained in Paragraph five. This contract is valid for a period of one year from the above date or can be terminated by either party at any time by written notice, but not to the detriment of any legal rights or obligations incurred prior to such termination.

3. Acceptance means agreement by applicant with an employer to begin work.

4. Schedule of Fees (Rate of Professional Service Charges Based on Projected Annual Compensation at Time of Acceptance). The method of computing applicant's projected annual compensation, shall be 52 times applicant's weekly compensation, or 12 times applicant's monthly compensation or as outlined in Paragraph 7 of this contract. These estimates are for the purpose of computing service charges and in no way guarantee the procured employment for a year.

5. Schedule of Fees

Estimated Gross Annual Compensation	
Maximum Fee	
Less than \$ 4,000	4%
\$4,000 but less than \$ 5,000	5%
\$5,000 but less than \$6,000	6%
\$6,000 but less than \$ 7,000	7%
\$7,000 but less than \$ 8,000	8%
\$8,000 but less than \$ 9,000	9%
\$9,000 but less than \$10,000	10%
\$10,000 but less than \$11,000	11%
\$11,000 but less than \$12,000	12%
\$12,000 but less than \$13,000	13%
\$13,000 but less than \$14,000	14%
\$14, 000 but less than \$15,000	15%
\$15, 000 but less than \$16,000	16%
\$16,000 but less than \$17,000	17%
\$17,000 but less than \$18,000	18%
\$18,000 but less than \$19,000	19%
\$19,000 but less than \$20,000	20%
\$20,000 but less than \$21,000	21%

\$21,000 but less than \$22,000	22%
\$22,000 but less than \$23,000	23%
\$23,000 but less than \$24,000	24%
\$24,000 but less than \$25,000	25%
\$25,000 and up shall never exceed	25%

Fees are rounded down to the nearest dollar.

6. It is agreed that applicant shall at all times have the right to refuse any employment tendered. The fee of the employment service is earned when applicant accepts employment, payable as follows except that in no case shall any portion of the fee be collected before the applicant commences work on the new job and in no case shall the full amount of the fee be mandatorily payable sooner than 30 days from the date employment begins.

Guarantee

If the position the employment service has obtained for applicant ends within 90 consecutive calendar days from date of employment, regardless of reason, the Service Charge will be reduced to 20 percent of the gross earnings of the applicant. All refunds due shall be made promptly by the employment service upon proper verification of earnings with the employer, and in no case shall the delay exceed 14 days from date verification in writing is received. The applicant shall be responsible for obtaining verification of earnings from employer. If applicant accepts a position and then remains with his present employer, he agrees to pay 20 percent of the applicable fee for the position accepted.

7. If applicant accepts a job where he/she is compensated on a straight commission, drawing account, salary plus bonus or any combination of these, he/she agrees that the employment service fee shall be based on his/her first full year's gross compensation as estimated by the employer. The fee shall be adjusted downwards or upward accordingly at the end of the first full year of employment based upon proof of actual compensation. Requests for adjustment must be made by either party in writing within 60 days following the first full year of employment or termination, whichever is sooner. Under no circumstances will overtime pay be included in gross earnings.

8. Applicant's acceptance of an introduction by the employment service shall take precedence over any previous application he may have filed with said employer.

9. Applicant hereby stipulates and agrees to pay a penalty of 25 percent as attorney fees, plus court cost, on the earned fees due the employment service should it become necessary for the service to obtain counsel, a collection service, or resort to court action to collect same.

10. Applicant hereby stipulates that any agreement regarding the reimbursement of the service charge to applicant by the employer, is a separate agreement between said employer and applicant. Applicant further stipulates that regardless of any such agreement, applicant is responsible for the service charge under the conditions and terms of the contract.

11. It is understood that if any section of this contract is in conflict with the Louisiana Private Employment Service Law or the Rules and Regulations established thereunder, then the provisions of law, rule and regulations shall govern. The declaration that any section of this contract conflicts with the provisions of law shall not render the remainder of this contract null, and to that end the sections of this contract are declared severable.

12. The employment service agrees that it will not under any interpretation of this contract make more than one full service charge for any one placement.

13. The parties hereto acknowledge receipt of a copy of this contract; that they have read and understand all provisions thereof and agree to abide by its terms and conditions.

APPLICANT: \_\_\_\_\_  
DATE: \_\_\_\_\_  
BY: \_\_\_\_\_  
PES REPRESENTATIVE: \_\_\_\_\_

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services LR 28:

**§125. PES Contract For Sitters/Nurses**

**A. PES Contract**

1. This agreement entered into this date \_\_\_\_\_ between \_\_\_\_\_ hereinafter referred to as REGISTER and \_\_\_\_\_ hereinafter referred to as the applicant. Should I accept employment with an employer to which \_\_\_\_\_ has referred me within twelve months from date of referral, I agree to pay a fee for professional services in accordance with the fee schedule listed in Paragraph 3.

2. This contract is valid for a period of one year from the above date or may be terminated by either party at any time by written notice, but not to the detriment of any legal rights or obligations incurred prior to such termination.

3. The applicant agrees to pay to \_\_\_\_\_ a fee of \_\_\_\_\_ percent of first year's gross earnings received for employment to which \_\_\_\_\_ has referred the applicant. Should case continue longer than one year, no additional fee will be charged.

4. Applicant hereby agrees to pay a penalty of 25 percent as attorney fees, plus court cost, on the earned fees due \_\_\_\_\_ should it become necessary to obtain counsel, a collection service, or resort to court action.

5. Applicant hereto acknowledges receipt of a copy of this contract; and understands the foregoing contract and agree to all of its terms and conditions.

\_\_\_\_\_  
APPLICANT  
\_\_\_\_\_  
DATE  
\_\_\_\_\_  
REPRESENTATIVE  
\_\_\_\_\_  
DATE

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training,

Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

**§127. Private Employment Services Contract for Applicant Escrow Accounts**

**A. Private Employment Services Contract**

1. This contract is entered into by and between \_\_\_\_\_ hereinafter referred to as the applicant and (name of private employment service) hereinafter referred to as the employment service. Acceptance means agreement by applicant with employer to begin work.

2. Should applicant accept employment with an employer to which the employment service has referred him/her within one year from the date of this contract, the applicant agrees to pay a fee for professional services rendered in accordance with the schedule contained in Paragraph 4. This contract can be terminated by either party at any time by written notice, but not to the detriment of any legal rights or obligations incurred prior to such termination.

3. Applicant hereby agrees to execute a payroll check mailing agreement and a limited power of attorney authorizing the employment service to receive applicant's payroll checks, pay to itself the applicable placement fee and remit the remainder of wages to applicant as spelled out in the limited power of attorney.

4. The professional service placement fee shall be based on the applicant's projected daily wage rate, multiplied times \_\_\_\_\_ days.

5. Upon acceptance of a job, the employment service shall prepare an invoice which states the actual placement fee and place the invoice in the applicant's file. The placement fee shall be paid in strict accordance with terms of the limited power of attorney alluded to above and all files concerning the placement fee, limited power of attorney and mailing agreement shall be maintained in the applicant's file for a period of five years after the aforementioned power of attorney expires.

6. The estimates of applicant's daily wage rate found herein are for the purpose of computing service charge and in no way guarantee the procured employment for a year. The fee is earned by employment service when applicant accepts employment and is payable as follows:

a. No down payment is required! Payments will be 20 percent of gross pay of each payroll check until fee has been paid in its entirety.

**Guarantee**

If position employment service has obtained for applicant ends within 90 days from date of employment, regardless of reason, the service charge will be reduced to 20 percent of gross earnings of applicant. All refunds due shall be made promptly by employment service upon proper verification of earnings with employer, and in no case shall the delay exceed 14 days from applicant's request. If applicant accepts a position and then remains with his present employer, he agrees to pay 20 percent of the applicable fee for position accepted.

7. Applicant hereby stipulates and agrees to pay a penalty of 25 percent as attorney fees, plus court cost, on the earned fees due the employment service should it become necessary for the service to obtain counsel, a collection service, or resort to court action to collect same.

8. It is understood that if any section of this contract is in conflict with Louisiana Private Employment Service Law, or the rules and regulations established thereunder, then the

provisions of law, rule and regulations shall govern. The declaration that any section of this contract conflicts with the provisions of law shall not render the remainder of this contract null, and to that end the sections of this contract are declared severable.

9. (Name of Private Employment Service) agrees that it will not under any interpretation of this contract make more than one service charge for any one placement. The parties hereto acknowledge receipt of a copy of this contract; they have read and understand all provisions thereof and agree to abide by its terms and conditions.

\_\_\_\_\_  
SIGNATURE OF APPLICANT

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SOCIAL SECURITY #

\_\_\_\_\_  
SIGNATURE OF PES REPRESENTATIVE

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:

**§129. Repeal of Prior Rules**

A. All Rules and Regulations heretofore adopted by the Louisiana Department of Labor, Office of Regulatory Services, for the administration of laws pertaining to Private Employment services, including but not limited to those Rules adopted April 20, 1991, are hereby repealed in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Regulatory Services, LR 28:

**§131. Severability Clause**

A. These rules and each of their provisions are hereby declared to be severable, one from another. If any provision or item of a rule, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the rule which can be given effect without the invalid provision, item or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Regulatory Services, LR 28:

**Family Impact Statement**

1. What effect will this rule have on the stability of the family? The proposed rule will not affect 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? The proposed rule will not affect 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? This rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? This rule will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? No, the action proposed is strictly a state of enforcement function.

These proposed regulations are to become effective upon publication in the *Louisiana Register*. Interested parties may submit written comments to Winnie J. Pace, Labor Program Manager, Louisiana Department of Labor, P.O. Box 94094, Baton Rouge, LA 70804-9094. Comments will be accepted through the close of business on January 28, 2002. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on January 29, 2002, at 10 a.m. at the office of the Louisiana Department of Labor, 1001 North 23rd Street, Room 102, Baton Rouge, LA 70802.

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Private Employment Service**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The estimated implementation costs to the state governmental units will result from the handling of complaints, the initiation of hearings and investigations, and inspections by the Office of Regulatory Services. No additional costs will be borne by the state because the regulatory activities of the Office of Regulatory Services are currently being conducted as required by existing statutes. There will be no costs or savings to local governmental units because these proposed rules do not affect local government.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated effect on revenue collections to the state from the collection of license fees, manager examinations fees and assessment of penalties is estimated to be between \$45,000 and \$60,000 annually; however, this revenue collection estimate does not reflect the collections or generation of any new additional dollars because the Office of Regulatory Services is already collecting this amount as provided by existing law. These proposed rules will have no effect on revenue collections of local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The estimated costs to directly affected persons and non-governmental groups are as follows: bond requirements will result in a cost of \$50 to \$100; employment service investigation requires a fee of \$300; employment service licensee's and manager's/on-site consultant's examination requires a fee of \$100; and out-of-state employment services advertisement requires a fee of \$200. Additionally, a resume preparation fee of up to \$50 may be charged to the job applicant. These proposed rules do not impose any new or additional costs to the regulated community because the regulatory activities of the Office of Regulatory Services are currently being conducted as required by existing statutes.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Competition and employment should not be affected by these rules as such rules are designed primarily to protect the applicants.

Gary Forster  
Secretary  
0112#032

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office



**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

Imposition of Sanctions, Enforcement Actions of the Board, Managerial Representative on Premises, and Supplier Permit Criteria (LAC 42:VII.2325, 2995; IX.2931, 2174, 4103; and XIII.2325, 2995)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:VII.2325, 2955; IX.4103; XIII.2325, and to adopt IX.2174, 2931 and XIII.2955 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 42**

**LOUISIANA GAMING**

**Part VII. Pari-Mutuel Live Racing Facility Slot Machine Gaming**

**Chapter 23. Compliance, Inspections and Investigations**

**§2325. Imposition of Sanctions**

- A. - D. ...
- E. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)
***			
<b>Chapter 29. Operating Standards</b>			
***			
2955	Managerial Representative on Premises	\$25,000	18
***			

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1919 (October 1999), amended LR 27:1321 (June 1999), LR 28:

**Chapter 29. Operating Standards**

**§2955. Managerial Representative on Premises**

A. Each licensee shall establish a position designated as Managerial Representative on Premises. A Managerial Representative on Premises shall be on the licensee's premises at all times and shall have authority to immediately act on behalf of the general manager in any matter or concern of the board or division. A description of the duties and responsibilities of the Managerial Representative on Premises shall be included in the licensee's internal controls as approved by the Division.

B. Each licensee shall provide, in writing, a current list of all Managerial Representatives on Premises. Each Managerial Representative on Premises must have a valid current gaming employee permit and must be approved by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, amended LR 27:770 (April 2000), LR 28:

**Part IX. Landbased Casino Gaming  
Subpart 1. Economic Development and Gaming Corporation**

**Chapter 21. Applications, Suitability, Permitting and Licensing**

**§2174. Supplier Permit Criteria**

A. The division shall determine whether suppliers providing goods and/or services to the casino operator or casino manager are legitimate ongoing businesses. In making such determination the division shall consider any or all of the following nonexclusive factors:

1. years in business providing specific goods and/or services procured by the casino operator or casino manager;
2. number of employees;
3. total customer base;
4. dollar volume of all sales compared to sales to the casino operator;
5. existence and nature of warehouse and storage facilities;
6. existence and number of commercial delivery vehicles owned or leased;
7. existence and nature of business offices, equipment and facilities;
8. whether the goods and/or services provided to the casino operator are brokered, and, if so, whether the actual supplier distributes through brokers as a common business practice;
9. registration with and reporting to appropriate local, state and federal authorities, as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:

**§2931. Managerial Representative On Premises**

A. The casino operator shall establish a position designated as Managerial Representative on Premises. A Managerial Representative on Premises shall be on the casino operator's premises at all times and shall have authority to immediately act on behalf of the general manager in any matter or concern of the board or division. A description of the duties and responsibilities of the Managerial Representative on Premises shall be included in the casino operator's internal controls as approved by the Division.

B. The casino operator shall provide, in writing, a current list of all Managerial Representatives on Premises. The Managerial Representative on Premises must have a valid current gaming employee permit and must be approved by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:

**Chapter 41. Enforcement Actions**

**§4103. Enforcement Actions of the Board**

- A. - B. ...
- C. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)
***			
<b>Chapter 29. Operating Standards</b>			
***			
2931	Managerial Representative on Premises	\$25,000	18
***			

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1974 (October 1999), amended LR 26:2305 (October 2000), LR 28:

**Part XIII. Riverboat Gaming**

**Chapter 23. Compliance, Inspections and Investigations**

**§2325. Imposition of Sanctions**

- A. - D. ...
- E. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)
***			
<b>Chapter 27. Accounting Regulations</b>			
***			
2713.C	Written Approval Required for Licensees own Calculation Procedure	\$5,000	12
***			
2719.B	No Cash Wagers allowed	\$10,000	18
<b>Chapter 29. Operating Standards</b>			
***			
2955	Managerial Representative on Premises	\$25,000	18
***			
<b>Chapter 31. Rules of Play</b>			
3101	Authority & Applicability		
3101.A&C	Only Authorized Games allowed: 90 day trial period	\$25,000	24
3101.B	Games must be conducted according to rules and licensee's rules of play	\$5,000	12
3103	House Rules	\$5,000	12
3105	Submission of Rules	\$25,000	24
3107	Wagers	\$10,000	18
3109	Game Limits	\$5,000	12
3111	Publication of Payoffs	\$5,000	12
3113	Periodic Payoffs	\$5,000	12
3115	Blackjack	\$5,000	12
3117	Craps	\$5,000	12
3119	Roulette	\$5,000	12
3121	Mini-Baccarat	\$5,000	12
3123	Big Six Wheel	\$5,000	12
3125	Bouree	\$5,000	12
3127	Poker	\$5,000	12
3129	Variations of Poker	\$5,000	12
3131	Red Dog	\$5,000	12
3133	Sic Bo	\$5,000	12
***			

<b>Chapter 42. Electronic Gaming Devices</b>			
4202	Approval of Gaming Devices; Applications and Procedures; Manufacturers and Suppliers	\$10,000	12
4204	Progressive EGDs	\$5,000	12
4205	Computer Monitoring Requirements of Electronic Gaming Devices	\$10,000	12
4208	Certification by Manufacturer	\$1,000	12
4211	Duplication of Program Storage Media	\$20,000	24
4212	Marking, Registration, and Distribution of Gaming Devices	\$5,000	12
4213	Approval to Sell or Dispose of Gaming Devices	\$10,000	24
4214	Maintenance of Gaming Devices	\$20,000	24
4219	Approval of Associated Equipment; Application and Procedures	\$5,000	12
***			
4317	Destruction of Counterfeit Chips and Tokens	\$5,000	12
***			
4323	Approval and Specifications for Cards	\$5,000	12
***			

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:705 (July 1995), amended LR 26:1318 (June 2000), LR 28:

**§2955. Managerial Representative On Premises**

A. Each licensee shall establish a position designated as Managerial Representative on Premises. A Managerial Representative on Premises shall be on the licensee's premises at all times and shall have authority to immediately act on behalf of the general manager in any matter or concern of the board or division. A description of the duties and responsibilities of the Managerial Representative on Premises shall be included in the licensee's internal controls as approved by the Division.

B. Each licensee shall provide, in writing, a current list of all Managerial Representatives on Premises. Each Managerial Representative on Premises must have a valid current gaming employee permit and must be approved by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:

All interested persons may contact Tom Warner, Attorney General's Gaming Division, Telephone (225) 342-2465, Fax (225) 342-4244, and may submit comments relative to these proposed rules, through January 9, 2002, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Imposition of Sanctions, Enforcement  
Actions of the Board, Managerial Representative on  
Premises, and Supplier Permit Criteria**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
It is anticipated that there will be no direct implementation costs or savings to state or local government units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No effect on revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Implementation of Rules LAC 42:VII.2955, IX.2931 and XIII.2955 will not require employment of additional personnel by licensees or the casino operator, but only that certain employees be designated as the "managerial representative." LAC 42:VII.2325, IX.4103 and XII.2325 incorporate a twenty five thousand dollar (\$25,000) penalty for violation of the managerial representative rule which could potentially result in costs to licensees or the casino operator in the event of a violation.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No effect on competition or employment is estimated.

Hillary J. Crain                      Robert E. Hosse  
Chairman                              General Government Section Director  
0112#083                              Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of the State Fire Marshal**

State Uniform Construction Code (LAC 55.V.4001)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1725 et seq., relative to the authority of the State Fire Marshal to promulgate rules and regulations and to declare the content of the State Uniform Construction Code, notice is hereby given that the State Fire Marshal intends to adopt the proposed Rule declaring that the State Uniform Construction Code shall consist of the 1997 edition of the Standard Building Code (SBC) as published by the Southern Building Code Congress International and the 1999 edition of the National Electrical Code (NEC) as published by the National Fire Protection Association.

The full text of this proposed Rule may be viewed in the Emergency Rule section of this issue of the *Louisiana Register*.

**Family Impact Statement**

- 1. A reasonable person would expect that these Rules will have no effect on the stability of the family.
- 2. A reasonable person would expect that these Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.
- 3. A reasonable person would expect that these Rules will have no effect on the functioning of the family.
- 4. A reasonable person would expect that these Rules will have no effect on family earnings and family budget.

5. A reasonable person would expect that these Rules will have no effect on the behavior and personal responsibility of children.

6. A reasonable person would expect that these Rules will have no effect on the ability of the family to perform the function as contained in the proposed Rules.

Interested persons may submit written comments to Tony Walker, Office of State Fire Marshal, 5150 Florida Boulevard, Baton Rouge, LA. 70806. Comments will be received through January 30, 2002.

V.J. Bella  
State Fire Marshal

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: State Uniform Construction Code**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There should be no costs to state or local government. The proposed Rule is pursuant to an Emergency Rule published December 20, 2001. The purpose of the Rule is to ratify practices that have already been undertaken by local government relative to the *State Uniform Construction Code*.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is anticipated that there will be no direct 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 is no significant impact from adoption of the Rule. The Rule is published in order to state that the present status of the Code will remain unchanged for most or all of calendar year 2002.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No net effect on competition or employment is anticipated since all entities will be equally affected.

V.J. Bella                              Robert E. Hosse  
State Fire Marshal                      General Government Section Director  
0112#086                              Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Revenue  
Tax Commission**

Ad Valorem Tax  
(LAC 61:V.309, 703, 907, 1103, 1503, 2503,  
2705, 2707, 3103, 3301, and 3501)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950, et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission intends to adopt, amend and/or repeal Sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 2002 (2003 Orleans Parish) tax year.

The full text of these proposed Rules may be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed Rules until 4 p.m., January 4, 2002, to E.W. "Ed" Leffel, Property Tax Specialist, Louisiana Tax Commission, Box 66788, Baton Rouge, LA 70896.

Malcolm B. Price, Jr.  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Ad Valorem Tax Rules and Regulations**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Implementation costs to the agency are the costs of preparation, reproduction and distribution of updated regulations and complete manuals. These costs are estimated at \$7,500 for the 2001-2002 fiscal year and are being reimbursed through an existing user service fee of \$15 per update set.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

**Local Governmental Units**

These revisions will generally increase 2002 certain personal property assessments for property of similar age and condition in comparison with equivalent assessments in 2001. Composite multiplier tables for assessment of most personal property will decrease by 0.3 percent. Specific valuation tables for assessment of oil and gas wells will generally increase by an estimated 4.3 percent and drilling rigs by an estimated 98 percent. The net effect of these revisions is estimated to increase assessments by 0.5 percent and tax collections by \$2,077,000 on the basis of existing statewide average millage. However, these revisions will not necessarily effect revenue collections of local government units as any net increase or decrease in assessed valuations are authorized to be offset by millage adjustment provisions of Article VII, Section 23 of the state Constitution.

**State Governmental Units**

Under authority granted by R.S. 47:1838, the Tax Commission will receive state revenue collections generated by assessment service fees estimated to be \$334,000 from public service companies, and \$94,000 from financial institutions and insurance companies all of which are assessed by the Tax Commission.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

The affects of these new Rules on assessments of individual items of equivalent personal property will generally be higher in 2002 than in 2001. Specific assessments will depend on the age and condition of the property subject to assessment.

The estimated costs that will be paid by affected persons as a result of the assessment and user service fees as itemized above total \$428,000 to be paid by public service property owners, financial institutions and insurance companies for 2001-2002.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

The impact on competition and employment cannot be quantified. Inasmuch as the proposed changes in assessments and charges are relatively small, the impact is thought to be minimal.

James D. Peters  
Administrator  
0112#085

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**FITAP Reporting Requirements (LAC 67:III.1257)**

The Department of Social Services, Office of Family Support, proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 2, Family Independence Temporary Assistance Program (FITAP).

Pursuant to the authority granted to the department by the Louisiana Temporary Assistance to Needy Families (TANF) Block Grant, the agency proposes to adopt §1257 to align the FITAP regulation for reporting income changes with the federal Food Stamp Program regulation which requires the household to report only certain increases in household members' income. The agency currently requires a FITAP household to report any change in the amount of income of any member of the household.

**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. A FITAP 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 \$25 in unearned income.

B. Changes shall be reported within 10 days of the knowledge of the change unless the FITAP household is included in a food stamp semi-annual reporting household. The FITAP household is then 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.

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

Interested persons may submit written comments on the proposed Rule by January 31, 2002 to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

**Family Impact Statement**

This Rule will have no impact on the stability and functioning of the family or on parental rights or the behavior or personal responsibility of the children and will have no impact on the budget of the affected family since reporting changes has always been a requirement of the program.

Gwendolyn P. Hamilton  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: FITAPC Reporting Requirements**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The additional eligibility requirement at §1257 will create no significant implementation costs or savings for state or local governmental units. The minimal cost of publishing the Rule and printing policy changes is routinely included in the agency's budget.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no impact on revenue collections for state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no resulting costs or economic benefits to any persons or non-governmental groups secondary to this proposed Rule. Although reporting changes may affect a household's grant, the amendment does not represent a change as this has always been a requirement of the program.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed Rule will have no impact on competition and employment.

Ann Williamson  
Assistant Secretary  
0112#105

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Transportation and Development  
Office of Highways/Engineering**

Placing of Major Shopping Area Guide  
Signs on Interstate Highways  
(LAC 70:III.Chapter 4)

In accordance with the applicable provisions of the Administrative Procedures Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to promulgate a Rule entitled "Placing of Major Shopping Area Guide Signs on Interstate Highways," in accordance with R.S. 48:274.3.

**Title 70**

**TRANSPORTATION**

**Part III. Highways/Engineering**

**Chapter 4. Placing of Major Shopping Area Guide  
Signs on Interstate Highways**

**§401. Definitions**

*Eligible Urban Highway* Can interstate highway.

*Gross Building Area* Square footage of usable area within a building, or series of buildings under one roof, that is considered usable by the retail businesses and the public; if a building is multi-level, this includes the square footage available on each level.

*Major Shopping Area* A geographic area that:

1. consists of 30 acres or more of land;
2. includes an enclosed retail shopping mall that contains 500,000 square feet or more of gross building area;

3. includes strip-style outdoor shopping plazas and outlet shopping centers that contain no less than 240,000 square feet of gross leasable space;

4. is located within three miles of an interchange with an eligible urban highway.

*Major Shopping Area Guide Sign* A rectangular sign panel imprinted with the name of the retail shopping area as it is commonly known to the public and containing directional information.

*Major Shopping Area Ramp Sign* A sign with the common name of the retail shopping mall, directional arrows, and/or distances placed near an eligible urban highway exit ramp.

*Retail Shopping Mall* Retail businesses located within a building, or a series of buildings, connected by a common continuous roof and walls, and enclosing and covering all inner pedestrian walkways and common areas.

*Supplemental Guide Sign* The major shopping area guide signs shall meet the applicable provisions of the Engineering Directives and Standards Memorandum for Interstate Supplemental Guide Signs Section and Manual on Uniform Traffic Control Devices. Only one supplemental guide sign assembly with a maximum of two supplemental guide sign destinations shall be allowed per exit. Other existing and new traffic generators which qualify for supplemental guide signs shall be given priority over major shopping area guide signs, including permitted and installed shopping area guide signs.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 48:274.3.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:

**§403. Specifications for Major Shopping Area  
Mainline Guide Signs**

A. A major shopping area sign shall:

1. have a green background with a white retroreflective legend and border;
2. meet the applicable provisions of the Engineering Directives and Standards Memorandum for Interstate Supplemental Guide Signs and the Manual on Uniform Traffic Control Devices;
3. have background, legend, and border material which conforms with department specifications for reflective sheeting;
4. not be illuminated externally or internally; and
5. be fabricated, erected and maintained in conformance with department specifications and fabrications details.

B. A major shopping area guide sign shall:

1. contain the name of the major shopping area as it is commonly known to the public;
2. be a maximum of 20 characters in length; and
3. contain the exit number or, if exit numbers are not applicable, other directional information.

C. Subject to approval of the department, a major shopping area guide sign shall be installed or placed:

1. independently mounted, or if approved by the department, attached to existing guide signs;
2. to take advantage of natural terrain;
3. to have the least impact on the scenic environment;
4. to avoid visual conflict with other signs within the highway right-of-way;

5. with a lateral offset equal to or greater than existing guide signs;
6. for both directions of travel on the eligible urban highway;
7. without blocking motorists' visibility of existing traffic control and guide signs; and
8. in locations that are not overhead unless approved by the department.

D. The department reserves the right to terminate permits and cover or remove any or all shopping center guide signs under the following conditions:

1. failure of a business to meet the minimum criteria;
2. failure to pay renewal fees within 30 days of invoice;
3. during roadway construction and maintenance projects; or
4. the department determines that new or existing traffic generators have a higher priority.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:274.3.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:

#### **§405. Major Shopping Area Ramp Signs.**

- A. A major shopping area ramp sign shall:
  1. have a green background with a white reflective legend and border;
  2. meet the applicable provisions of the Engineering Directives and Standards Memorandum for Interstate Supplemental Guide Signs and the Manual on Uniform Traffic Control Devices;
  3. have background, legend, and border material which conforms with department specifications for reflective sheeting;
  4. be fabricated, erected, and maintained in conformance with department specifications and fabrication details; and
  5. not be illuminated internally or externally.
- B. A major shopping area ramp sign shall contain:
  1. the name of the major shopping area as it is commonly known to the public; and
  2. directional arrows and distances.

C. Subject to approval of the department, the major shopping area ramp sign(s) may be placed along an exit ramp or at an intersection of an access road and crossroad if the retail shopping mall driveway access, buildings, or parking areas are not visible from the exit ramp, access road, or intersection.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:274.3.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:

#### **§407. Application**

A. Applications for Major Shopping Area Guide Signs shall be made utilizing the department's "Major Shopping Area Guide Sign Permit" form and shall be submitted to the Department of Transportation and Development, Traffic Services and Engineering Section, 7686 Tom Drive, Baton Rouge, LA 70806.

B. Applications will be accepted on a "first come, first served" basis. The department will notify the public 30 days in advance of the date, time and location of acceptance of

applications by publication of a notice in the newspapers statewide which are designated as "official journals."

C. All permitted major shopping area guide signs shall be fabricated and installed according to departmental standards by a private contractor employed by the permit applicant and shall be installed at locations pursuant to departmental approval and according to a Traffic Control Device Permit issued by the department. The cost of design, fabrication, and installation shall be the responsibility of the permit applicant.

D. An annual fee of \$3,600 per interchange shall be payable to the department prior to installation or renewal. The interchange fee includes \$1,200 for each mainline sign and \$600 for each ramp or trailblazer sign. This fee represents the department's cost to administer the program. A portion of the fee is also associated with maintenance of the highway right-of-way being utilized, as well as the cost associated with anticipated maintenance of the shopping center guide sign.

E. Upon completion of installation, all major shopping area guide signs and mountings become the property of the department and shall then be maintained by the department.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:274.3.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:

#### **§409. Department Contracts**

A. The department may enter into a contract or contracts for the administration, installation, maintenance, accounting and marketing of the shopping center guide sign program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:274.3.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this notice of intent to Sherryl J. Tucker, Senior Attorney, Legal Section, Department of Transportation and Development, P. O. Box 94245, Baton Rouge, LA 70804-9245, telephone (225) 237-1359.

Kam K. Movassaghi, P.E., Ph.D.  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Major Shopping Area Guide Signs**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
 

The anticipated implementation cost to the department for this rule is \$18,000 per year for the first three years.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 

The fee of \$3,600 per interchange should generate \$18,000 per year for the first three years. Currently five shopping centers in Louisiana qualify for the major shopping center guide sign permit. If each applies for a permit and pays the \$3,600 permit fee, a total of \$18,000 per year will be collected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Directly affected groups, major shopping centers, should benefit economically from the directions given to highway travelers to their establishments. The public should benefit by being better able to find these shopping destinations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be a positive impact on competition and employment.

Kam K. Movassaghi  
Secretary  
0112#054

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Transportation and Development  
Office of Highways/Engineering**

Control of Outdoor Advertising  
(LAC 70:I.127 and 134)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to amend a Rule entitled "Regulations for Control of Outdoor Advertising," in accordance with R.S. 48:461, et seq.

**Title 70**

**TRANSPORTATION**

**Part I. Office of the General Counsel**

**Chapter 1. Outdoor Advertisement**

**Subchapter C. Regulations for Control of Outdoor Advertising**

**§127. Definitions**

**Centerline of Highway**—A line equidistant from the edges of the median separating the main-traveled ways of a divided Interstate Highway, or the centerline of the main-traveled way of a non-divided Interstate Highway or the centerline of each of the main-traveled ways of a divided highway separated by more than the normal median width or constructed on independent alignment.

**Controlled Areas**—Within urban areas, the applicable control area distance is 660 feet measured horizontally from the edges of the right-of-way along a line perpendicular to the centerline of the Interstate and/or Federal Aid Primary Systems. Outside urban areas, the control area extends beyond 660 feet to include any sign within visibility of the Interstate and/or Federal Aid Primary System.

**Erect**—to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

**Illegal Sign**—One which was erected and/or maintained in violation of State law or local law or ordinance.

**Inventory of 1966**—the record of the survey of outdoor advertising signs in existence along Interstate and Federal-Aid Primary Highways as of the date of the inventory compiled by the State Highway Department (now Department of Transportation and Development) pursuant to FHWA Instructional Memorandum No. 50-1-66 dated January 7, 1966.

**Lease**—an agreement, license, permit or easement, oral or in writing, by which permission or use of land or interest therein is given for a special purpose and which is a valid contract under the laws of Louisiana.

**Main-Traveled Way**—the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposing directions is a main-traveled way. The main-traveled way does not include such facilities as frontage roads, turning roadways, or parking areas.

**Maintenance**—means to allow to exist. The dimensions of the existing sign are not to be altered, nor shall any additions be made to it except for a change in message content. When the cost to maintain exceeds 1/3 of the "as new" replacement cost of the sign, it shall be considered new construction and shall be subject to all requirements pertaining to new construction.

**Safety Rest Area**—an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control for the convenience of the traveling public.

**Sign**—any outdoor sign, light, display, figure, painting, drawing, message, placard, poster, billboard or other device which is designed, intended or used to advertise or inform, and any part of the advertising or informative content which is visible from any place on the main-traveled way of the Interstate or Federal Aid Primary Highway System, whether the same be a permanent or portable installation.

**Traveled Way**—the portion of a roadway designed for the movement of vehicles, exclusive of shoulders.

**Turning Roadway**—a connecting roadway for traffic turning between two intersecting portions of an interchange.

**Unzoned**—for purposes of R.S. 48:461 et seq., that no land-use zoning is in effect. The term does not include any land area which has a rural zoning classification, or which has land uses established by zoning variance, nonconforming rights recognition or special exception.

**Urban Area**—an urbanized area or an urban place as designated by the Bureau of Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible state and local officials in cooperation with each other, subject to approval by the United States Secretary of Transportation. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of Census.

**Visible**—for purposes of R.S. 48:461 et seq., capable of being seen, whether or not readable, without visual aid by a person of normal visual acuity.

**Zoned Commercial or Industrial Areas**—those areas which are zoned for business, industry, commerce or trade pursuant to a state or local zoning ordinance or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:187 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:

**§134. Spacing of Signs**

A. Interstate, Federal-Aid Primary Highways and National Highway System signs may not be located in such a manner as to obscure or otherwise physically interfere with the effectiveness of an official traffic sign, signal or device, or obstruct or physically interfere with the driver's view of approaching, merging or intersecting traffic.

B. Non-Interstate Freeways on the Federal-Aid Primary System and National Highway System (Control of Access Routes)

1. No two structures shall be spaced less than 500 feet apart.

2. Outside of incorporated villages, towns and cities, no structure may be located adjacent to or within 500 feet of an interchange, intersection at grade, or safety rest area.

C. Non-Freeway Federal-Aid Primary Highways or National Highway System

1. Outside of incorporated villages, towns and cities, no two structures shall be spaced less than 300 feet apart.

2. Within incorporated villages, towns and cities, no two structures shall be spaced less than 100 feet apart.

D. The above provisions applying to the spacing between structures do not apply to structures separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distance is visible from the highway at any one time. This exception does not apply to vegetation.

E. Official and "on-premise" signs, as defined in §139, and structures that are not lawfully maintained shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this Notice of Intent. Such comments should be submitted to Susan Stafford, Senior Attorney, Legal Section, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245, Telephone (225) 237-1357.

Kam K. Movassaghi, P.E., Ph.D.  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Control of Outdoor Advertising**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs associated with this proposed rule. The principles reflected in the proposed rule have been in force and effect since the Federal Highway Beautification Act was enacted in 1965. The proposed Rule formalizes within Departmental Administrative Rules the principles contained in the Federal Act.

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 benefit to directly affected persons or non-governmental groups. The outdoor advertising industry, which must adhere to these Rules, has been aware of these principals and complying with them since approximately 1965.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment. These Rules have been in effect for more than thirty years.

Kam K. Movassaghi  
Secretary  
0112#055

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Transportation and Development  
Office of the Secretary  
Crescent City Connection Division**

Transit Lane Tolls  
(LAC 70:I.515)

The Crescent City Connection Division of the Department of Transportation and Development, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., gives notice that rulemaking procedures have been instituted to amend LAC 70:I.515 to provide for access to the transit lanes on the Crescent City Connection Bridge No. 2., New Orleans, Louisiana, by eligible vehicles by means of properly mounted toll tags.

The proposed Rule Amendment is enabled by R.S. 48:1101.2 and R.S. 48:1104.1.

**Title 70**

**TRANSPORTATION**

**Part I. Office of the General Counsel**

**Chapter 5. Tolls**

**§515. Crescent City Connection Transit Lanes**

A. Intent. It is the intent of this Rule to efficiently maximize the use of the vehicular traffic lanes of the Crescent City Connection for the increased mobility of individuals and goods across the Mississippi River at New Orleans, to encourage and promote mass transit and transportation such as the use of carpools and other high-occupancy vehicle (HOV) use, while minimizing transportation-related fuel consumption and air pollution, and to provide for one-way reversible traffic flow on the transit lanes of the Crescent City Connection Bridge No. 2, and the establishment of the requirements for vehicles operating on the transit lanes.

B. Hours of Operation

1. The transit lanes of the Crescent City Connection Bridge No. 2 will be open for use by eligible vehicles in accordance with the control signals posted by the Crescent City Connection Division through the Crescent City Connection Police.

2. Generally, the transit lanes of the Crescent City Connection Bridge No. 2 will be open for use by eligible



vehicles with the traffic proceeding to the Eastbank in the morning and with the traffic proceeding to the Westbank in the afternoon.

3. However, the directional traffic flow of the transit lanes may be reconfigured by the Crescent City Connection Division in its sole discretion at such times and in such directions in order to protect the public safety during emergencies and to accommodate the public interest during special events.

C. Ineligible Vehicles. The objective of the transit lanes is to provide a free flowing facility for mass transit, high occupancy vehicles, and other eligible vehicles. Accordingly, the following vehicles are prohibited from using the transit lanes during the hours of operation even though they may satisfy the vehicle occupancy requirements:

1. trucks with more than two axles or having a gross weight capacity of one ton or more;
2. vehicles towing trailers;
3. parades;
4. funeral processions;
5. pedestrians;
6. bicycles; and
7. non-motorized vehicles.

D. Eligible Vehicles. The following vehicles are eligible to use the transit lanes during the hours of operation:

1. all public mass transit vehicles, including Regional Transit Authority buses and Jefferson Transit System buses, properly displaying a valid toll tag issued by the Crescent City Connection Division ("Public Mass Transit Vehicles");
2. school buses properly displaying a valid toll tag issued by the Crescent City Connection Division ("School Buses");
3. commercial passenger vehicles manufactured to carry seven or more passengers and properly displaying a valid toll tag issued by the Crescent City Connection Division ("HOV-7");
4. other motor vehicles carrying more than a specified number of persons and properly displaying a valid toll tag issued by the Crescent City Connection Division ("HOV-2");
5. motorcycles properly displaying a valid toll tag issued by the Crescent City Connection Division ("Authorized Motorcycles"); and
6. any vehicle certified as an Inherently Low-Emission Vehicle pursuant to Title 40, Code of Federal Regulations, and labeled in accordance with Section 88.312-93(c) of such Title, and properly displaying a valid toll tag issued by the Crescent City Connection Division ("ILEV").

E. Vehicle Occupancy Requirements. The minimum occupancy requirement for vehicles designated as HOV-2 shall be two or more persons during all hours of operation. The minimum occupancy requirement for vehicles designated as HOV-7 shall continue to be seven or more persons during all hours of operation. There are no minimum occupancy requirement for vehicles designated as Authorized Motorcycles or for vehicles designated as ILEV during all hours of operation.

F. Qualifications.

1. Eligible vehicles must be prequalified to use the transit lanes as follows.

a. Public Mass Transit Vehicles. All public mass transit vehicles properly displaying a valid toll tag issued by the Crescent City Connection Division shall continue to be

pre-qualified to access the transit lanes toll-free during the hours of operation.

i. Upon the written application of the chief administrative officer of the Regional Transit Authority and/or the Jefferson Transit System, and upon payment of the required deposit, the Crescent City Connection Division shall issue the number of automatic vehicular identification toll tags requested for use in connection with the use of the transit lanes by Public Mass Transit Vehicles.

ii. A refundable deposit of \$25 shall be charged for the issuance of each tag.

iii. Toll tags issued for Public Mass Transit Vehicles shall expire annually and shall be renewed upon advance application by the chief executive or administrative officer of the Regional Transit Authority and the Jefferson Transit System, as the case may be, attesting to the use of outstanding tags exclusively by Public Mass Transit Vehicles.

iv. It is incumbent upon the chief executive or administrative officer of the Regional Transit Authority and the Jefferson Transit System, as the case may be, to promptly report lost toll tags to the Crescent City Connection Division.

v. The use of the automatic vehicular identification toll tags provided to the Regional Transit Authority and the Jefferson Transit System shall be limited to crossings made by Public Mass Transit Vehicles. The Regional Transit Authority and the Jefferson Transit System, as the case may be, each shall be responsible for any crossing made using the automatic vehicular identification toll tag outside the scope of this regulation.

b. School Buses. All school buses properly displaying a valid toll tag issued by the Crescent City Connection Division shall continue to be authorized to access the transit lanes toll-free during the hours of operation.

i. Upon the written application of an official school system's transportation coordinator and/or bus drivers who privately own their clearly marked school buses, and upon payment of the required deposit, the Crescent City Connection Division shall issue the number of automatic vehicular identification toll tags requested for use in connection with the use of the transit lanes by School Buses. Bus drivers who privately own their clearly marked school buses must attach to their signed application an original letter from the school system they serve certifying that their bus services such school system.

ii. A refundable deposit of \$25 dollars shall be charged for the issuance of each tag.

iii. Toll tags issued for School Buses shall expire annually and shall be renewed upon advance application by the official school system's transportation coordinator or bus drivers who privately own their clearly marked school buses, as the case may be, attesting to the use of outstanding tags exclusively by School Buses.

iv. It is incumbent upon the official school system's transportation coordinator and bus drivers who privately own their clearly marked school buses, as the case may be, to promptly report lost toll tags to the Crescent City Connection Division.

v. The use of the automatic vehicular identification toll tags provided to for School Buses shall be

limited to crossings made by School Buses. Official school systems and bus drivers who privately own their clearly marked school buses, as the case may be, each shall be responsible for any crossing made using the automatic vehicular identification toll tag outside the scope of this regulation.

vi. Official school systems for purposes of this regulation are parish public school systems, private schools, and parochial schools operating in Louisiana.

c. HOV-7+. Eligible vehicles meeting the minimum occupancy requirement of seven or more persons and displaying a valid toll tag issued by the Crescent City Connection Division shall continue to be authorized to access the transit lanes toll-free during the hours of operation.

i. Upon the written application of the owner or operator of a commercial passenger vehicle manufactured to carry seven or more passengers, and upon payment of the required deposit, the Crescent City Connection Division shall issue an automatic vehicular identification toll tag requested for use in connection with the use of the transit lanes by an HOV-7 vehicle.

ii. A refundable deposit of \$25 shall be charged for the issuance of each tag.

iii. Toll tags issued for HOV-7 vehicles shall expire annually and shall be renewed upon advance application of the owner or operator, attesting to the use of outstanding tags exclusively by HOV-7 vehicles.

iv. It is incumbent upon the owner and the operator of HOV-7 vehicles to promptly report lost toll tags to the Crescent City Connection Division.

v. The use of the automatic vehicular identification toll tags provided to for HOV-7 vehicles shall be limited to crossings made by eligible vehicles meeting the minimum occupancy requirements of seven or more persons. Registered owners of HOV-7 vehicles shall be responsible for any crossing made using the automatic vehicular identification toll tag outside the scope of this regulation.

d. HOV-2+. Eligible vehicles meeting the minimum occupancy requirement of two or more persons and displaying a valid toll tag issued by the Crescent City Connection Division.

e. Authorized Motorcycles. Motorcycles displaying a valid toll tag issued by the Crescent City Connection Division.

f. ILEV. Any vehicle certified as an Inherently Low-Emission Vehicle pursuant to Title 40, Code of Federal Regulations, and labeled in accordance with, Section 88.312-93(c) of such title, and properly displaying a valid toll tag issued by the Crescent City Connection Division.

2. Toll tags on Public Mass Transit Vehicles, School Buses, HOV-7 vehicles, HOV-2 vehicles, Authorized Motorcycles, and ILEV's must be conspicuously mounted and displayed in accordance with the instructions of the Crescent City Connection Division at all times while operating on the transit lanes.

G Enforcement. During all hours of operation, the Crescent Connection Police shall supervise and actively control access to the transit lanes, and enforce vehicle eligibility, minimum occupancy requirements and toll tag display.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:25 et seq., and R.S. 48:1101.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Division of Crescent City Connection LR 23:84 (January 1997), amended LR 28:

### Family Impact Statement

The Crescent City Connection Division hereby makes these written considerations, known as the Family Impact Statement, of the following factors regarding the proposed rule amendment as required by R.S. 49:972.

1. The Effect on the Stability of the Family. This proposed rule amendment has no known impact on family stability.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. This proposed rule amendment has no known effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. This proposed rule amendment has no known effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. This proposed rule amendment has no known effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. This proposed rule amendment has no known effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. This proposed rule amendment has no applicability to family or a local government functions.

All interested persons may submit written comments on this proposed Rule Amendment through January 25, 2002, to Mr. Alan LeVasseur, P.O. Box 6297, New Orleans, LA 70174-6297. No preamble concerning the proposed Rule Amendment is available.

Alan LeVasseur  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Transit Lane Tolls

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will not be any material implementation costs to the State as a result of this Rule Amendment. R.S. 47:820.5 and R.S. 48:1101.2 currently allow for use of discounted toll tags for bridge crossings and for access to the transit lanes by eligible vehicles. Toll tags are currently issued to the Regional Transit Authority and the Jefferson Transit System for transit lane access. Tags will be issued to eligible school buses and commercial passenger vehicles manufactured to carry seven or more persons (HOV-7). Based on approximately 200 school buses' servicing the Orleans and Jefferson parish school systems and indicating a desire for toll tags, an estimated 50 additional school buses for private and parochial school systems that may be interested in toll tags, and approximately 50 HOV-7 vehicles currently registered, it is anticipated that 300 new toll tags would need to be purchased.

Although the Crescent City Connection Division currently budgets the costs of toll tags from self-generated agency funds, the estimated implementation costs would be approximately \$9,900 based on 300 additional tags at \$33 per toll tag.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Free passage on the transit lanes of the Crescent City Connection by public mass transit vehicles, school buses and HOV-7 vehicles is currently provided for. The proposed Rule Amendment merely requires that such free passage to be made by toll tag. Accordingly, there will be no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

A refundable deposit of \$25 for each non-revenue toll tag requested will be imposed. The costs of such deposits to each of the effected transit systems, school systems and HOV-7 operators will be minimal. Local transit systems have already been impacted by approximately \$3,150, based on 126 public

mass transit vehicles' currently utilizing the transit lanes. It is anticipated that local school systems and independent bus drivers will be impacted by approximately \$7,500 as a group, based on 300 school buses anticipated to utilize the transit lanes by means of toll tags, and that HOV-7 operators will be impacted by approximately \$1,250, based on 50 HOV-7 vehicles' currently utilizing the transit lanes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Kenneth E. Pickering  
General Counsel  
0112#065

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

# Committee Reports

## COMMITTEE REPORT

### House of Representatives

#### Committee on Administration of Criminal Justice November 16, 2001

Withdrawal of Applications; Voluntary Surrender of Licenses and Permits; Imposition of Sanctions; Enforcement Actions of the Board  
(LAC 42:III.121, 122; VII.2325; XIII.2325; IX.4103)

In accordance with R.S. 49:968, and oversight subcommittee of the Administration of Criminal Justice Committee met on November 14, 2001, in House Committee Room 6 at 1:00 p.m. for the purpose of conducting legislative oversight on rules proposed by the Louisiana Gaming Control Board. These rules address the withdrawal of applications and the voluntary surrender of licenses or permits. I am enclosing a copy of the proposed rule for your information.

The Oversight Subcommittee found that the proposed rules are unacceptable. This finding of unacceptability was made pursuant to a motion to which there was no objection. A quorum of the Subcommittee was present to a motion to which there was no objection. A quorum of Subcommittee was present for the findings of unacceptability consisting of the following members:

Representative Martiny  
Representative Heaton  
Representative Baldone  
Representative Bruce  
Representative Cazayoux  
Representative Devillier  
Representative Farrar  
Representative LaFleur  
Representative Morrell  
Representative Romero  
Representative Wooton

1. That the proposed rules provide significant consequences to the person requesting a withdrawal or voluntary surrender without providing any criteria upon which the determination of with or without prejudice is based.

2. That without criteria an applicant cannot determine under what circumstances his application or surrender could be denied with prejudice. The subcommittee determined that without criteria the proposed rules are fundamentally unfair.

3. That the proposed rules provide that the division is not required to give reasons why an application or surrender is denied with prejudice. The subcommittee determined that without giving an applicant, licensee, or permittee reason for the division's action the proposed rule is fundamentally unfair.

4. That the proposed rules provide that the applicant, licensee, or permittee is not eligible to apply again to the division for a period of five years if the action of the division was with prejudice. This does not allow the division an discretion to review such cases even if there has been a significant change I the circumstances of the applicant, licensee, or permittee.

5. That five years was too long for an applicant, licensee, or permittee to be ineligible to apply for a license or permit following division action with prejudice. Testimony at the hearing revealed that similar provisions in Nevada and Mississippi provide for a one year time period following a regulatory body action with prejudice.

Daniel R. Martiny  
Chairman

0112#011

# Potpourri

## POTPOURRI

### Department of Environmental Quality Office of Environmental Assessment

#### Notice of Public Hearing CAQ211S

Under the authority of the Louisiana 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 the department is seeking to incorporate substantive changes to the proposed amendments to the Air Quality regulations, LAC 33:III.Chapter 6 (Log #AQ211S), which was originally noticed as AQ211 in the July 20, 2001, edition of the *Louisiana Register*. This rule is also being proposed as a revision to the Louisiana State Implementation Plan (SIP).

As a result of comments received during the public comment period, the department has made substantive changes to streamline and clarify the proposed rule.

The proposed rule with substantive changes included can be found in this publication under the Emergency Rules Section, as AQ211E. A strikeout/underline/shaded version of the proposed rule that distinguishes original proposed language from substantively changed language can be viewed by visiting the DEQ website at <http://www.deq.state.la.us/planning/regs/addition/index.htm>.

A public hearing on the substantive changes and the SIP revision will be held on January 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments. Should individuals with a disability need an accommodation in order to participate, contact Lucy Kraft at the address given below or at (225) 765-0399.

Written comments regarding the substantive changes must be received no later than January 24, 2002, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to FAX (225) 765-0389. Persons commenting should reference AQ211S in their correspondence.

Copies of the substantively changed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ211S.

This regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104

Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/addition/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

0112#072

## POTPOURRI

### Department of Environmental Quality Office of Environmental Assessment

#### Notice of Public Hearing CAQ215

Under the authority of the Louisiana 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 the department is seeking to incorporate substantive changes to the proposed amendments to the Air Quality regulations, LAC 33:III.Chapter 22 (Log #AQ215S), which was originally noticed as AQ215 in the August 20, 2001, edition of the *Louisiana Register*. This rule is also being proposed as a revision to the Louisiana State Implementation Plan (SIP).

The department is making substantive changes to the proposed rule as a result of comments received during the public comment period and completion of the modeling analysis for the Baton Rouge attainment plan. The changes include, but are not limited to, the following:

1. change to, or in, emission factors for some boilers;
2. addition of certain exemptions;
3. addition of monitoring alternatives;
4. move of previous Subsection C (Definitions) to Subsection B;
5. move of previous Subsection B (Exemptions) to Subsection C; and
6. clarifications and rewording.

The original fiscal and economic impact statement has been revised to reflect the estimated impact of the rule with substantive changes.

The proposed rule with substantive changes included can be found in this publication under the Emergency Rules Section, as AQ215E. A strikeout/underline/shaded version of the proposed rule that distinguishes original proposed language from substantively changed language can be viewed by visiting the DEQ website at <http://www.deq.state.la.us/planning/regs/addition/index.htm>.

A public hearing on the substantive changes and the SIP will be held on January 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the substantive changes. Should individuals with a disability need an accommodation in order to participate, contact Lucy Kraft at the address given below or at (225) 765-0399.

Written comments regarding the substantive changes must be received no later than January 24, 2002, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178, or to Fax (225) 765-0389. Persons commenting should reference AQ215S in their correspondence.

Copies of the substantively changed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ215S.

This regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/addition/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

0112#071

## POTPOURRI

### Office of the Governor Office of Financial Institutions

#### Judicial Interest Rate Determination

R.S. 13:4202.B, as amended by Acts 2001, No. 841, requires the Louisiana Commissioner of Financial Institutions to determine the rate of judicial interest. The Commissioner has determined that the rate of judicial interest for the entire year of 2002 will be 5.75 percent per annum. The determination was made in accordance with La. R.S. 13:4202.B(1).

The Commissioner ascertained on October 1, 2001, the first business day of October, 2001, that the approved discount rate of the Federal Reserve Board of Governors, that was in effect on October 1, 2001, was published on page C-19 of the October 1, 2001, issue of the *Wall Street Journal*, was 2.5 percent.

R.S. 13:4202.B(1) mandates that "on and after January 1, 2002, the rate shall be equal to the rate as published annually ... by the commissioner of financial institutions. The commissioner of financial institutions shall ascertain, on the first business day of October of each year, the Federal Reserve Board of Governors' approved discount rate published daily in the *Wall Street Journal*. The effective judicial interest rate for the calendar year following the calculation date shall be 3.25 percentage points above the discount rate as ascertained by the commissioner."

The effective judicial interest rate for the entire year of 2002 shall be 5.75 percent per annum.

This determination and its publication in the Louisiana Register shall not be considered rule-making, within the intendment of R.S. 49:950 et seq., the Administrative

Procedure Act, particularly R.S. 49:953; therefore, neither a fiscal impact statement nor a notice of intent is required.

John D. Travis  
Commissioner of Financial  
Institutions

0112#051

## POTPOURRI

### Office of the Governor Oil Spill Coordinator's Office

#### Damage Assessment and Restoration Four Bayou Pass Oil Spill

November 1999, Four Bayou Pass Oil Spill in Plaquemines Parish, Louisiana; Availability and Request for Comments on a Draft Damage Assessment and Restoration Plan.

#### Agencies

Louisiana Oil Spill Coordinator's Office, Office of the Governor (LOSCO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); Louisiana Department of Wildlife and Fisheries (LDWF); and the U.S. Fish and Wildlife Service (USFWS).

#### Action

Notice of availability of a Draft Damage Assessment and Restoration Plan, and of a 30-day state period for public comment on the plan.

#### Summary

Pursuant to 15 C.F.R. §990.23 and 15 C.F.R. §990.55(c) and L.A.C. 43:XXIX, Chapter 1, notice is hereby given that a document entitled, "Draft Damage Assessment and Restoration Plan, Four Bayou Pass Crude Oil Discharge, Plaquemines Parish, Louisiana, November 24, 1999" (Draft DARP) will become available for public review and comment on December 20, 2001. This document is being prepared by the agencies listed above (the Trustees) to address natural resource injuries and losses of ecological services following the November 24, 1999 pipeline rupture of crude oil into Four Bayou Pass and surrounding waters, (the Incident). This document presents the Trustees' assessment of the natural resource injuries and losses of ecological services attributable to this Incident, and their proposed plan to restore, replace or acquire resources or services equivalent to those lost as a basis for compensating for the natural resource injuries and losses of service that occurred. The Trustees will consider comments received during the public comment period before finalizing the document. Public review of the Draft DARP is consistent with all state and federal laws and regulations that apply to the natural resource damage assessment process, including Section 1006 of the Oil Pollution Act (OPA), 33 U.S.C. §2706; the regulations for natural resource damage assessment under OPA, 15 C.F.R. §3480 of the Louisiana Oil Spill Prevention and Response Act (OSPRA), L.R.S. 30:2480; and the regulations for natural resource damage assessment under OSPRA, L.A.C. 43:XXXIX, Chapter 1.

### Dates

Comments must be submitted in writing on or before January 21, 2002.

### For Further Information

For further information contact: Warren P. Lorentz, at (225) 219-5800, email: wlorentz@losco.state.la.us.

### Addresses

Requests for copies of the Draft DARP and written comments on the plan should be sent to Warren Lorentz, LOSCO, 625 N. 4<sup>th</sup> Street, Suite 800, Baton Rouge, LA 70802.

### Supplementary Information

Between 0310 h and 0500 h CST on 24 November, 1999, a rupture in a 20" pipeline owned by Chevron Pipeline Co., occurred in Four Bayou Pass, Barataria Bay, Plaquemines Parish, Louisiana (Figure 1). Chevron estimated the volume to be 850 barrels of crude oil was released into the water. At the time of the spill, winds were northerly and large slicks were observed offshore. By the next morning, oil had been carried back into Barataria and Four Bayou Pass and shoreline oiling was observed along the barrier islands of Barataria Bay with the heaviest oilings observed on Grand Terre and East Grand Terre. Oil skimming and booming operations began on November 24, 1999 in an effort to control surface oil remove oil from the environment, and protect sensitive estuarine and marsh ecosystems.

Although response actions were undertaken, natural resources were exposed to the oil, including marsh, shorelines, birds, and water column organisms. A variety of injuries and lost uses of natural resources were documented as a result of that exposure. Access to recreational sites was reduced because of the Incident, thereby affecting human recreational uses of the area.

The incident is subject to the authority of OPA, 33 U.S.C. §2701 *et seq.*, the Federal Water Pollution Control Act (FWPCA or Clean Water Act), 33 U.S.C. §1251, *et seq.*; and OSPRA, L.R.S. 30:2451, *et seq.* DOI/USFWS, LOSCO, LDEQ, LDNR, and LDWF are Trustees for natural resources pursuant to §2706 of OPA, 33 U.S.C. §2706; Section 311 of the Clean Water Act, 33 U.S.C. §1321; Subpart G of the National Contingency Plan, 40 C.F.R. §§300.600-300.615; and, in the case of the Louisiana Trustees, OSPRA, L.R.S. 30:2451, *et seq.*, and in the case of the Federal Trustees, Executive Order 12777. As a designated Trustee, each agency is authorized to act on behalf of the public under state and/or federal law to assess and recover natural resource damages, and to plan and implement actions to restore natural resources and resource services injured or lost as the result of an incident.

Pursuant to §1006 of OPA (33 U.S.C. §2706) and §2480 of OSPRA (L.R.S. 30:2480), the designated natural resource Trustees have conducted a damage assessment for this Incident to evaluate potential injuries to natural resources and services, and to determine the need for and scale of restoration actions required. The Draft DARP discusses the natural resources and services, including human recreational use, believed to be affected by the Incident, details the assessment procedures used, outlines the restoration alternative selection and scaling process, and identifies the preferred restoration alternatives to address natural resource injuries and losses of service. The Trustees determined that injured natural resources and services have largely returned

to baseline conditions, and are expected to fully return to baseline without requiring any further actions. However, the Trustees have determined that there have been interim losses to habitat services, birds, aquatic fauna, and recreational use that require compensatory restoration to make the environment and the public whole for these losses.

The Trustees decided that the preferred compensatory restoration action for bird injury is chenier oak-hackberry habitat enhancement and protection. Chevron proposed a settlement offer of 2.54 acres of avian habitat which exceeded trustee requirements. This habitat is imperiled on Grande Isle and provides critical life history requirements of numerous species of trans-Gulf migratory birds. These cheniers are the first resting and foraging site for birds after they cross the Gulf of Mexico on annual migrations. This habitat also provides resting sites for marsh birds and protects the barrier island and its backwater bay marshes (which are heavily used by sea and marsh birds) from wind and wave erosion.

Interested parties are invited to request a copy of the Draft DARP from and to submit written comments to Warren P. Lorentz at the address given above. All written comments will be considered by LOSCO, LDEQ, LDNR, LDWF, and DOI/USFWS, in finalizing the DARP.

Roland Guidry  
Oil Spill Coordinator

0112#030

### POTPOURRI

#### Department of Health and Hospitals Board of Embalmers and Funeral Directors

##### Embalmer/Funeral Director Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, January 12, 2002, at Delgado Community College, 615 City Park Avenue, New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino  
Executive Director

0112#048

### POTPOURRI

#### Department of Insurance Office of the Commissioner

##### Rating Requirements For Medical Savings Accounts

To: All Carriers Offering Medical Savings Accounts and Other Uniquely Packaged Health Insurance Products

### Purpose

It has come to my attention that including health insurance policies sold under Medical Savings Accounts (hereinafter referred to as MSA) and other uniquely packaged health

insurance products, as provided by state and federal law, does not promote efficiency and fairness in the small employer and individual health insurance marketplace. Based on the Department's review of MSA's and other uniquely packaged health insurance products in the markets of Louisiana, I have approved the following changes in rating requirements for small group and individual health insurance policies:

For small group health insurance rating purposes, those federally qualifying Medical Savings Account health insurance policies, certificates or subscriber agreements shall be recognized as a distinct grouping pursuant to R.S. 22:228.1.B(5)(c). Also pursuant to R.S. 22:228.1.B(5)(c), other uniquely packaged health insurance products, such as basic medical expense coverage, may also be recognized as a distinct grouping subject to the establishment of such groupings satisfactory to the Commissioner.

For individual health insurance rating purposes, those federally qualifying Medical Savings Account health insurance policies, certificates or subscriber agreements carriers shall be authorized to utilize a Medical Savings Account classification factor pursuant to R.S. 22:228.6. Similarly, other uniquely packaged health insurance products, such as basic medical expense coverage, shall be authorized to utilize a distinct classification factor upon review and approval of such uniquely packaged health insurance products. The maximum adjustment applicable to all other factors approved by the Department, including Medical Savings Accounts, shall not exceed fifteen percent.

All carriers offering MSA's and other uniquely packaged health insurance products in Louisiana should review the rating guidelines applicable to small group and individual health products and adjust their renewal premiums effective for renewals on or after January 1, 2002.

All carriers offering MSA's in Louisiana shall file with the Office of Health Insurance a listing of all small group and individual health products that are marketed in conjunction with MSA's no later than March 1, 2002. All carriers seeking approval of other uniquely packaged health insurance products should file their request along with a specimen copy of the product with the Office of Health Insurance.

Please be governed accordingly.

J. Robert Wooley  
Acting Insurance Commissioner

0112#027

**POTPOURRI**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Board Meeting Dates**

The Members of the Louisiana Board of Veterinary Medicine will meet on the following dates in 2002:

- Thursday, February 7, 2002
- Thursday, April 4, 2002
- Thursday, June 6, 2002 (Annual Meeting)
- Thursday, August 1, 2002
- Thursday, October 3, 2002
- Thursday, December 5, 2002

These dates are subject to change, so please contact the board office via telephone at (225) 342-2176 or email at lbvm@eatel.net to verify actual meeting dates.

Kimberly B. Barbier  
Administrative Director

0112#012

**POTPOURRI**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

**Spring/Summer Examination Dates**

The Louisiana Board of Veterinary Medicine will administer the State Board Examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

The Board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the National Board of Veterinary Medical Examiners (NBVME), formerly the National Board Examination Committee (NBEC), as follows:

**Test Window Date**  
April 8 through  
April 20, 2002

**Deadline To Apply**  
Tuesday, February 5, 2002

The Board will also accept applications for and administer the Veterinary Technician National Examination (VTNE) for state registration of veterinary technicians as follows:

**Test Date**  
Friday, June 21, 2002

**Deadline To Apply**  
Friday, May 10, 2002

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801 and by request via telephone at (225) 342-2176 or by e-mail at lbvm@eatel.net; application forms and information are also available on the website at www.lsbvm.org.

Kimberly B. Barbier  
Administrative Director

0112#013

**POTPOURRI**

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

**Notice of Public Hearing CP  
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 by the agency. The scheduled public hearing will take place on January 11, 2002 beginning at 10 a.m in Room 511 at 325 Loyola Avenue, New Orleans, Louisiana. Copies of the grant may be obtained from Sylvia McKee, Administrative and Support Services, Office of Public Health, 325 Loyola Avenue, New Orleans, LA. You may also contact Mrs. McKee by telephone at (504) 568-2952 for additional information.

David W. Hood  
Secretary

0112#106

**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
Drew Cornell, Inc.	Aloha	M	F B Antee SWD	001	049643
Gulf Production Corp.	Woodlawn	L	CAM 1 RA SUA; Miller	001	181467
Joseph C. Hawkins	Caddo Pine Island	S	Dorough	001	036459
Joseph C. Hawkins	Caddo Pine Island	S	Dorough	002	036584
Joseph C. Hawkins	Caddo Pine Island	S	Pala B	008	990291
Joseph C. Hawkins	Caddo Pine Island	S	Pala B	006	032552
Joseph C. Hawkins	Caddo Pine Island	S	Pala B	002	023147
Joseph C. Hawkins	Caddo Pine Island	S	Pala B	011	990290
Joseph C. Hawkins	Caddo Pine Island	S	Pala B	005	032551
Joseph C. Hawkins	Caddo Pine Island	S	Pala B	009	042055
Joseph C. Hawkins	Caddo Pine Island	S	Pala B	010	042054
Joseph C. Hawkins	Caddo Pine Island	S	Pala B	001	023030
Joseph C. Hawkins	Caddo Pine Island	S	Pala B	004	032507
Hush Oil	Caddo Pine Island	S	Dawes	001	163155
Hush Oil	Caddo Pine Island	S	Dawes	002	163205
Hush Oil	Caddo Pine Island	S	Dawes	003	165160

Hush Oil	Caddo Pine Island	S	Dawes	005	166659
Hush Oil	Caddo Pine Island	S	Dawes	004	167244
Hush Oil	Caddo Pine Island	S	Dawes	006	167504
Hush Oil	Caddo Pine Island	S	Hart	001	176159
Hush Oil	Caddo Pine Island	S	Hart	002	182716
Hush Oil	Caddo Pine Island	S	Hart	003	182717
Hush Oil	Caddo Pine Island	S	Dawes	007	185053
Hush Oil	Caddo Pine Island	S	Dawes	008	185054
Hush Oil	Caddo Pine Island	S	Dawes	010	189764
Hush Oil	Caddo Pine Island	S	Dawes	011	191696
Hush Oil	Caddo Pine Island	S	Dawes	012	191697
Hush Oil	Caddo Pine Island	S	Dawes	013	191698
Hush Oil	Caddo Pine Island	S	Dawes	014	191699
Hush Oil	Caddo Pine Island	S	Dawes	015	191700
Hush Oil	Caddo Pine Island	S	Hart	004	200436
Hush Oil	Caddo Pine Island	S	Hart	005	200437
Hush Oil	Caddo Pine Island	S	Hart	008	202511
Hush Oil	Caddo Pine Island	S	Hart	006	202509
Hush Oil	Caddo Pine Island	S	Hart	007	202510
Hush Oil	Caddo Pine Island	S	Hart	009	211094
Hush Oil	Caddo Pine Island	S	Dawes	016	213348
Hush Oil	Caddo Pine Island	S	Dawes	017	214093
Oxtex, Inc.	Breton Sound Block 30	L	10900 RA SUA;SL 5897	001	145605
Primos Oil & Gas Corp.	Monroe	M	Johnson	A001	099460
Primos Oil & Gas Corp.	Monroe	M	Lieber Estate	B001	100233
Primos Oil & Gas Corp.	Monroe	M	Humphries	001	106161
Primos Oil & Gas Corp.	Monroe	M	Jones	001	106282
Primos Oil & Gas Corp.	Monroe	M	Layton	001	106396
Primos Oil & Gas Corp.	Monroe	M	Stubbs	C005	107507
Primos Oil & Gas Corp.	Monroe	M	Lieber Estate	B002	107508

Primos Oil & Gas Corp.	Monroe	M	Morris	001	107791
Sohio Petroleum Co.	Sunshine	L	Harry B Nelson B	001	036083
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	001	190047
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	002	190048
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	003	190049
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	004	190050
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	005	190051
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	006	190052
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	007	190053
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	008	190054
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	009	190055
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	010	190056
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	011	190057
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	012	190058
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	013	190059
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	014	190060
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	015	190061
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	016	190062
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	017	190063
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	018	190064
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	019	190065
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	020	190066
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	021	190067
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	022	190068
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	023	190069
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	024	190070
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	025	190071
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	026	190072
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	027	190073

Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	028	190074
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	029	190075
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	030	190076
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	031	190077
Sovereign Energy Corp.	Caddo Pine Island	S	Henry Dawes A	032	190078
Sovereign Energy Corp.	Caddo Pine Island	S	Carter-Dawes A	010	191361
Sovereign Energy Corp.	Caddo Pine Island	S	Carter-Dawes A	009	191362
Sovereign Energy Corp.	Caddo Pine Island	S	Carter-Dawes A	001	191363
Sovereign Energy Corp.	Caddo Pine Island	S	Carter-Dawes A	002	191364
Sovereign Energy Corp.	Caddo Pine Island	S	Carter-Dawes A	003	191365
Sovereign Energy Corp.	Caddo Pine Island	S	Carter-Dawes A	004	191366
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Philip N. Asprodites  
Commissioner

0112#079

**POTPOURRI**  
**Department of Natural Resources**  
**Office of the Secretary**

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 12 claims in the amount of \$27,547.77 were received for payment during the period November 1, 2001-November 30, 2001. There were 11 claims paid and 1 claim denied.

Loran coordinates of reported underwater obstructions are:

26839	46968	Cameron
27577	46952	Iberia
28468	46864	Lafourche
28568	46863	Jefferson
28958	46892	Lafourche

Latitude/longitude coordinates of reported underwater obstructions are:

2914.399	8959.326	Jefferson
2926.455	9008.950	Lafourche
2927.420	9157.680	Vermilion
2946.431	8915.750	St. Bernard
3006.623	8930.718	Lafourche

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.

Jack C. Caldwell  
Secretary

0112#049

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