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Executive Orders

EXECUTIVE ORDER MJF 03-17

Toledo Bend Reservoir Conservation
Pool Level Advisory Council

WHEREAS, Executive Order No. MJF 2003-14, issued on August 21, 2003, created the Toledo Bend Reservoir Conservation Pool Advisory Council within the executive department, Office of the Governor;

WHEREAS, it is necessary to amend Executive Order No. MJF 2003-14 in order to increase the membership of the Council;

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

SECTION 1: Section 4 of Executive Order No. MJF 2003-14, issued on August 21, 2003, is amended as follows:

The Council shall be composed of a maximum of 18 members who, unless otherwise specified, shall be appointed by and serve at the pleasure of the governor. The membership of the Council shall be selected as follows:

- A. the governor, or the governor's designee;
- B. the chair of the Board of Commissioners for the Sabine River Authority, or the chair's designee;
- C. the chair of the House Committee on Commerce, or the chair's designee;
- D. the chair of the Senate Committee on Commerce, or the chair's designee;
- E. two representatives of the Louisiana Public Service Commission;
- F. two representatives of the Toledo Bend Citizens' Advisory Committee;
- G. two representatives of the CLECO Power, L.L.C.;
- H. two representatives of the Entergy Corporation;
- I. two representatives of the South Toledo Bend Civic Association;
- J. two representatives of the Toledo Bend Lake Association; and
- K. two members at-large.

SECTION 2: All other sections, subsections, and paragraphs of Executive Order No. MJF 2003 - 14 shall remain in full force and effect.

SECTION 3: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

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

Louisiana, at the Capitol, in the city of Baton Rouge, on this 3rd day of October, 2003.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0310#026

EXECUTIVE ORDER MJF 03-18

Louisiana Aquaculture Advisory Council

WHEREAS, Executive Order No. MJF 2003-15, issued on August 21, 2003, established the Louisiana Aquaculture Advisory Council (hereafter "Council") within the executive department, Office of the Governor; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2003-15 in order to modify the membership of the Council;

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

SECTION 1: Section 4 of Executive Order No. MJF 2003-15, issued on August 21, 2003, is amended as follows:

The Council shall be composed of no more than 22 members who, unless otherwise specified, shall be appointed by and serve at the pleasure of the governor. The membership of the Council shall be selected as follows:

- A. the governor, or the governor's designee;
- B. the commissioner of agriculture, or the commissioner's designee;
- C. the secretary of the Department of Wildlife and Fisheries, or the secretary's designee;
- D. the chair of the Louisiana Wildlife and Fisheries Commission, or the chair's designee;
- E. the executive assistant to the governor for coastal activities, or the executive assistant's designee;
- F. the secretary of the Department of Economic Development, or the secretary's designee;
- G. the chair of the Senate Committee on Agriculture, or the chair's designee;
- H. the chair of the House Committee on Agriculture, or the chair's designee;
- I. the chair of Senate Committee on Natural Resources, or the chair's designee;
- J. the chair of the House Committee on Natural Resources, or the chair's designee;

EXECUTIVE ORDER MJF 03-19

Louisiana Women's Policy and Research Commission

K. two representatives of the Louisiana State University AgCenter;

L. an aquatic biologist of the University of Louisiana System;

M. a representative of the Louisiana Farm Bureau Association with expertise in aquatic production;

N. a representative of the Louisiana Vocational Agriscience Teachers= Association with expertise in aquatic production and vocational agriscience;

O. a representative of the Louisiana Catfish Farmers Association with expertise in aquatic production;

P. a representative of the Coastal Conservation Association;

Q. an active crawfish producer;

R. a representative of the Louisiana Bass Federation;

S. an active aquatic producer nominated by the commissioner of agriculture;

T. an active game fish producer nominated by the secretary of the Department of Wildlife and Fisheries; and

U. an enforcement agent of the Department of Wildlife and Fisheries.

SECTION 2: All other sections, subsections, and/or paragraphs of Executive Order No. MJF 2003-15 shall remain in full force and effect.

SECTION 3: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 7th day of October, 2003.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0310#027

WHEREAS, Executive Order No. MJF 2000-6, as amended by Executive Order No. MJF 2001-6¹, established the Louisiana Women's Policy and Research Commission in the executive department, Office of the Governor, charging it with the duty of advising the governor on the means to help Louisiana women achieve their fullest potential; and

WHEREAS, Act No. 668 of the 2003 Regular Session of the Louisiana Legislature, effective June 27, 2003, enacted R.S. 46:2525 to statutorily create the Louisiana Women's Policy and Research Commission within the executive department, Governor's Office on Women's Policy;

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

SECTION 1: Executive Order No. MJF 2000-6, issued on February 16, 2000, and Executive Order No. MJF 2001-6, issued on February 9, 2001, are hereby terminated and rescinded.

SECTION 2: This Order is effective upon signature.

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 7th day of October, 2003.

¹Executive Order Nos. MJF 2000-8 and MJF 2000-54 also amended Executive Order No. MJF 2000-6. Those Orders, however, were terminated and rescinded on February 9, 2001, by Executive Order No. MJF 2001-6.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0310#028

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Honey Testing and Sale (LAC 7:XXXV.141)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of honey in Louisiana. This Rule is being adopted in accordance with R.S. 3:2A, 3:3B, R.S. 3:4608, and the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act.

The commissioner has promulgated these Rules and regulations to implement standards relating to Chloramphenicol in honey that are consistent with standards adopted by the FDA regarding chloramphenicol in foods. All honey sold in Louisiana must meet the standards adopted by the commissioner, herein, prior to distribution and sale.

Chloramphenicol is a broad-spectrum antibiotic that has been restricted by the FDA for use in humans only in those cases where other antibiotics have not been successful. The FDA has set a zero tolerance level for Chloramphenicol in food and has prohibited the extra label use of Chloramphenicol in the United States in food producing animals, including bees (21 CFR 530.41).

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, Chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "Drugs in Pregnancy and Lactation," the use of Chloramphenicol is strongly dissuaded during pregnancy, especially late pregnancy. Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize Chloramphenicol as efficiently, thereby causing the risk of an increasing toxicity level in the unborn child. Although the effect on an infant as a result of nursing from a mother who has taken Chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

Recently, Canada, the United Kingdom, the European Union, and Japan have found chloramphenicol in honey imported from China. The department has found chloramphenicol in honey imported from Thailand. Preliminary test results from Canada indicate about 80 percent of the samples are positive for chloramphenicol. The possibility exists that other countries may export chloramphenicol-contaminated honey to the U.S.A., either by diversion of Chinese honey or their own use of chloramphenicol.

The sale of such honey in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to Chloramphenicol, a known health hazard. The sale, in Louisiana, of honey containing Chloramphenicol presents an imminent peril to the public's health, safety, and welfare. This peril can cause consumers to quit buying honey from any source, including Louisiana honey. If consumers cease to buy, or substantially reduce, their purchases of Louisiana honey then Louisiana honey producers will be faced with substantial economic losses. Any economic losses suffered by Louisiana's honey producers will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

The Commissioner of Agriculture and Forestry has, therefore, determined that these Emergency Rules are necessary to immediately implement testing of honey for Chloramphenicol, to provide for the sale of honey and products containing honey that are not contaminated with Chloramphenicol. This Rule becomes effective upon signature and will remain in effect 120 days, unless renewed by the commissioner or until permanent Rules are promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§141. Chloramphenicol in Honey Prohibited Testing and Sale

A. Definitions

Food Producing Animals—both animals that are produced or used for food and animals, including bees, which produce material used as food.

Geographic Area—a country, province, state, or territory or definable geographic region.

Honey—any honey, whether raw or processed.

B. No *honey* or food containing *honey* may be held, offered or exposed for sale, or sold in Louisiana if such *honey* or food containing *honey* contains Chloramphenicol.

C. No *honey* that is harvested from or produced, processed or packed in a *geographic area*, that the commissioner declares to be a location where Chloramphenicol is being used on or found in *food producing animals*, including bees, or in products from such animals, may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E. No *honey* from any such *geographic area* may be used, as an ingredient in any food held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E.

D. The commissioner may declare a *geographic area* to be a location where Chloramphenicol is being used on or found in *food producing animals*, including bees or in products from such animals, based upon information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in *food*

producing animals, or in products from such animals, in that *geographic area*.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The commissioner may release any such *geographic area* from a previous declaration that Chloramphenicol is being used on *food producing animals*, including bees, in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

E. *Honey* that comes from a *geographic area* declared by the commissioner to be a location where Chloramphenicol is being used on, or is found in *food producing animals*, including bees, or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana:

1. Sampling

a. The numbers of samples that shall be taken are as follows:

i. two samples are to be taken of *honey* that is in lots of fifty pounds or less;

ii. four samples are to be taken of *honey* that is in lots of fifty-one to one hundred pounds;

iii. twelve samples are to be taken of *honey* that is in lots of one hundred and one pounds up to fifty tons.

b. For *honey* in bulk wholesale containers, each sample shall be at least one pound or twelve fluid ounces and must be pulled at random throughout each lot.

c. For packaged *honey*, each sample shall be at least eight ounces in size and shall be taken at random throughout each lot.

d. If the *honey* to be sampled consists of packages of *honey* grouped together, but labeled under two or more trade or brand names, then the *honey* packaged under each trade or brand name shall be sampled separately. If the *honey* to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

e. A composite of the samples shall not be made. All samples shall be delivered to the lab. Each sample shall be clearly identifiable as belonging to a specific group of *honey* and shall be tested individually.

2. Each sample shall be identified as follows:

a. any package label;

b. any lot or batch numbers;

c. the country, province and city of origin;

d. the name and address of the importing company;

e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation. For small packages of *honey* up to and including eight ounces, use the entire sample. If *honey* sample includes more than one container, they shall be blended together. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample as a reserve.

4. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is one part per

billion, (1 ppb) or less. Acceptable test kits include r-iopharm Ridascreen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The Manufacturer's specified calibration curve must be run with each set. All results above 1 ppb must be assumed to be Chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States Department of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless it is located in a *geographic area* that the commissioner has declared to be a location where Chloramphenicol is being used on or found in *food producing animals* including bees, or in products from such animals. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for Chloramphenicol shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the department prior to the *honey* or food containing *honey* being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the *honey*.

8. Upon the department's actual receipt of a copy of the certified test results and written documentation required to accompany the certified test results, the *honey* or food containing *honey* may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment of such *honey* or food containing *honey*, and be attached to the documentation submitted with every shipment sent to each location in Louisiana, or shall be immediately accessible to the department, upon request, from any such location.

F. Any person who is seeking to bring *honey*, or any food containing *honey*, that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such *honey* or food containing *honey* in Louisiana shall be responsible for having the *honey*, sampled and tested in accordance with Subsection E. Any such person must, at all times, be in full

and complete compliance with all the provisions of this Section.

G. The commissioner may reject the test results for any *honey* if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

H. If any certified test results are rejected by the commissioner then any person shipping or holding the *honey* or food containing *honey* will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, any such person shall abide by such order until the commissioner lifts the order in writing. Any such person may have the *honey* retested in accordance with this Section and apply for a lifting of the commissioner's order upon a showing that the provisions of this Section have been complied with and that the *honey* is certified as being free of Chloramphenicol.

I. The department may inspect any *honey* and any food containing *honey*, found in Louisiana, and take samples for testing.

J. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any *honey* or any food containing *honey* that does not meet the requirements of this Section. Any such order shall remain in place until lifted, in writing, by the commissioner.

K. The department may take physical possession and control of any *honey* or any food containing *honey* that violate the requirements of this Section if the commissioner finds that the *honey* or food containing *honey* presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

L. The commissioner declares that he has information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in *food producing animals* including bees, or in products from such animals, in certain *geographic area(s)*.

1. The *geographic area* or areas are:
 - a. the country of the People's Republic of China;
 - b. the country of Thailand.

2. All *honey* harvested from or produced, processed or packed in any of the above listed *geographic areas* are hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

M. All records and information regarding the distribution, purchase and sale of *honey* or any food containing *honey* shall be maintained for two years and shall be open to inspection by the department.

N. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

O. The effective date of this Section is November 7, 2002.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 30:

Bob Odom
Commissioner

0310#004

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Shrimp and Crawfish Testing, Sale, and Labeling (LAC 7:XXXV.137 and 139)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rules governing the testing and sale of shrimp and crawfish in Louisiana and the labeling of foreign shrimp and crawfish. These Rules are being adopted in accordance with R.S. 3:2A, 3:3B, R.S. 3:4608 and the Emergency Rule provisions of R.S. 49:953 B of the Administrative Procedure Act.

The Louisiana Legislature, by SCR 13 of the 2002 Regular Session, has urged and requested that the Commissioner of Agriculture and Forestry require all shrimp and crawfish, prior to sale in Louisiana, meet standards relating to Chloramphenicol that are consistent with those standards promulgated by the United States Food and Drug Administration, (FDA). The Legislature has also urged and requested the commissioner to promulgate Rules and regulations necessary to implement the standards relating to Chloramphenicol in shrimp and crawfish that are consistent with those standards promulgated by the FDA, and which Rules and regulations require all shrimp and crawfish sold in Louisiana to meet the standards adopted by the commissioner, prior to sale.

Chloramphenicol is an antibiotic the FDA has restricted for use in humans only in those cases where other antibiotics or medicines have not been successful. The FDA has banned the use of Chloramphenicol in animals raised for food production. See, 21 CFR 522.390(3). The FDA has set a zero tolerance level for Chloramphenicol in food.

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, Chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "Drugs in Pregnancy and Lactation," the use of Chloramphenicol is strongly dissuaded during pregnancy, especially late pregnancy. Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize Chloramphenicol as efficiently, thereby causing the risk of an increasing toxicity level in the unborn child. Although the effect on an infant as a result of nursing from a mother who has taken Chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

Recently, European Union inspectors found chloramphenicol residues in shrimp and crawfish harvested from and produced in China. The inspectors also found "serious deficiencies of the Chinese residue control system and problems related to the use of banned substances in the veterinary field," which may contribute to Chloramphenicol residues in Chinese shrimp and crawfish. The Chinese are

known to use antibiotics, such as Chloramphenicol, in farm-raised shrimp. They are also known to process crawfish and shrimp harvested in the wild in the same plants used to process farm-raised shrimp.

The European Union, in January of this year, banned the import of shrimp and crawfish from China because Chloramphenicol has been found in shrimp and crawfish imported from China. Canada has, this year, banned the import of shrimp and crawfish that contain levels of chloramphenicol above the level established by Canada. Between 1999 and 2000 imports of Chinese Shrimp to the United States doubled, from 19,502,000 pounds to 40,130,000 pounds. With the recent bans imposed by the European Union and Canada there is an imminent danger that the shrimp and crawfish that China would normally export to the European Union and Canada will be dumped and sold in the United States, including Louisiana.

The sale of such shrimp and crawfish in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to Chloramphenicol, a known health hazard. The sale, in Louisiana, of shrimp and crawfish containing Chloramphenicol presents an imminent peril to the public's health, safety and welfare.

This peril can cause consumers to quit buying shrimp and crawfish from any source, including Louisiana shrimp and crawfish. If consumers cease to buy, or substantially reduce, their purchases of Louisiana shrimp and seafood, Louisiana aquaculture and fisheries will be faced with substantial economic losses. Any economic losses suffered by Louisiana's aquaculture and fisheries will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

Consumers of shrimp and crawfish cannot make an informed decision as to what shrimp or crawfish to purchase and the commissioner cannot adequately enforce the regulations regarding the sampling and testing of shrimp and crawfish unless shrimp and crawfish produced in foreign countries are properly labeled as to the country of origin.

The commissioner of Agriculture and Forestry has, therefore, determined that these Emergency Rules are necessary to immediately implement testing of shrimp and crawfish for Chloramphenicol, to provide for the sale of shrimp and crawfish that are not contaminated with Chloramphenicol and to provide for the labeling of shrimp and crawfish harvested from or produced, processed or packed in countries other than the United States. This Rule becomes effective on September 20, 2003 and will remain in effect 120 days, unless renewed by the commissioner or until permanent Rules are promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§137. Chloramphenicol in Shrimp and Crawfish Prohibited Testing and Sale

A. Definitions

Food Producing Animals Both animals that are produced or used for food and animals, such as dairy cows, that produce material used as food.

Geographic Area A country, province, state, or territory or definable geographic region.

Packaged Shrimp or Crawfish Any shrimp or crawfish, as defined herein, that is in a package, can, or other container, and which is intended to eventually be sold to the ultimate retail purchaser in the package, can or container.

Shrimp or Crawfish Any such animals, whether whole, de-headed, de-veined or peeled, and any product containing any shrimp or crawfish.

B. No shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana if such shrimp or crawfish contain Chloramphenicol.

C. No shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana without being accompanied by the following records and information, written in English:

1. The records and information required are:

a. the quantity and species of shrimp and crawfish acquired or sold;

b. the date the shrimp or crawfish was acquired or sold;

c. the name and license number of the wholesale/retail seafood dealer or the out-of-state seller from whom the shrimp or crawfish was acquired or sold;

d. the geographic area where the shrimp or crawfish was harvested;

e. the geographic area where the shrimp or crawfish was produced processed or packed;

f. the trade or brand name under which the shrimp or crawfish is held, offered or exposed for sale or sold; and

g. the size of the packaging of the packaged shrimp or crawfish.

2. Any person maintaining records and information as required to be kept by the Louisiana Department of Wildlife and Fisheries in accordance with R.S. 56:306.5, may submit a copy of those records, along with any additional information requested herein, with the shrimp or crawfish.

3. Any shrimp or crawfish not accompanied by all of this information shall be subject to the issuance of a stop-sale, hold or removal order until the shrimp or crawfish is tested for and shown to be clear of Chloramphenicol, or the commissioner determines that the shrimp or crawfish does not come from a geographic area where Chloramphenicol is being used on or found in food producing animals, or in products from such animals.

D. No shrimp or crawfish that is harvested from or produced, processed or packed in a geographic area, that the commissioner declares to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals, may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection F.

E. The commissioner may declare a geographic area to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals, based upon information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in that geographic area.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The commissioner may release any such *geographic area* from a previous declaration that Chloramphenicol is being used on *food producing animals* in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

F. *Shrimp or crawfish*, that comes from a *geographic area* declared by the commissioner to be a location where Chloramphenicol is being used on, or is found in *food producing animals*, or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana:

1. Sampling

a. The numbers of samples that shall be taken are as follows:

- i. two samples are to be taken of *shrimp or crawfish* that are in lots of 50 pounds or less;
- ii. four samples are to be taken of *shrimp or crawfish* that are in lots of 51 to 100 pounds;
- iii. twelve samples are to be taken of *shrimp or crawfish* that are in lots of 101 pounds up to 50 tons;
- iv. twelve samples for each 50 tons are to be taken of *shrimp or crawfish* that are in lots of over 50 tons.

b. For *packaged shrimp or crawfish*, each sample shall be at least eight ounces, (226.79 grams), in size and shall be taken at random throughout each lot of *shrimp or crawfish*. For all other *shrimp or crawfish*, obtain approximately one pound, (454 grams), of *shrimp or crawfish* per sample from randomly selected areas.

c. If the *shrimp or crawfish* to be sampled consists of packages of *shrimp or crawfish* grouped together, but labeled under two or more trade or brand names, then the *shrimp or crawfish packaged* under each trade or brand name shall be sampled separately. If the *shrimp or crawfish* to be sampled are not *packaged*, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

d. A composite of the samples shall not be made. Each sample shall be tested individually. Each sample shall be clearly identifiable as belonging to a specific group of *shrimp or crawfish*. All samples shall be kept frozen and delivered to the lab.

2. Each sample shall be identified as follows:

- a. any package label;
- b. any lot or batch numbers;
- c. the country, province and city of origin;
- d. the name and address of the importing company;
- e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation. For small packages of *shrimp or crawfish* up to and including one pound, use the entire sample. Shell the *shrimp or crawfish*, exercising care to exclude all shells from sample. Grind sample with food processor type blender while semi-frozen or with dry ice. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer as a reserve.

4. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is one part per

billion, (1 ppb) or less. Acceptable test kits include r-iopharm Ridascreen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The Manufacturer's specified calibration curve must be run with each set. All results 1 ppb or above must be assumed to be Chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States Department of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless the laboratory is located in any *geographic area* that the commissioner has declared to be a location where Chloramphenicol is being used on or found in *food producing animals*, or in products from such animals. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for Chloramphenicol shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the department prior to the *shrimp or crawfish* being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the *shrimp or crawfish*.

8. Upon actual receipt by the department of a copy of the certified test results and written documentation required to accompany the certified test results then the *shrimp or crawfish* may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment and be attached to the documentation submitted with every shipment of such shrimp or crawfish sent to each location in Louisiana or shall be immediately accessible to the department, upon request, from any such location.

G. Any person who is seeking to bring *shrimp or crawfish* that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such *shrimp or crawfish* in Louisiana shall be responsible for having such *shrimp or crawfish* sampled and tested in accordance with Subsection F. Any such person

must, at all times, be in full and complete compliance with all the provisions of this Section.

H. The commissioner may reject the test results for any *shrimp or crawfish* if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

I. In the event that any certified test results are rejected by the commissioner then any person shipping or holding the *shrimp or crawfish* will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, it will be the duty of any such person to abide by such order until the commissioner lifts the order in writing. Any such person may have the *shrimp or crawfish* retested in accordance with this Section and apply for a lifting of the commissioner's order upon a showing that the provisions of this Section have been complied with and that the *shrimp or crawfish* are certified as being free of Chloramphenicol.

J. The department may inspect, and take samples for testing, any *shrimp or crawfish*, of whatever origin, being held, offered or exposed for sale, or sold in Louisiana.

K. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any *shrimp or crawfish* that does not meet the requirements of this Section. Any such order shall remain in place until lifted in writing by the commissioner.

L. The department may take physical possession and control of any *shrimp or crawfish* that violate the requirements of this Section if the commissioner finds that the *shrimp or crawfish* presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

M. The commissioner declares that he has information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in *food producing animals*, or in products from such animals, in the following *geographic area(s)*:

1. The *geographic area* or areas are:
 - a. the country of the People's Republic of China.

2. All shrimp and crawfish harvested from or produced, processed or packed in any of the above listed *geographic areas* are hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

N. The records and information required under this Section shall be maintained for two years and shall be open to inspection by the department.

O. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

P. The effective date of this Section is May 24, 2002.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 30:

§139. Labeling of Foreign Shrimp and Crawfish by Country of Origin

A. Definitions.

Foreign Shrimp or Crawfish Any *shrimp or crawfish*, as defined herein that is harvested from or produced,

processed or packed in a country other than the United States.

Shrimp or Crawfish Any shrimp or crawfish, whether whole, de-headed, de-veined or peeled, and any product containing any *shrimp or crawfish*.

B. All *foreign shrimp or crawfish*, imported, shipped or brought into Louisiana shall indicate the country of origin, except as otherwise provided in this Section.

C. Every package or container that contains *foreign shrimp or crawfish*, shall be marked or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of the package or container will permit so as to indicate to the ultimate retail purchaser of the *shrimp or crawfish* the English name of the country of origin.

1. Legibility must be such that the ultimate retail purchaser in the United States is able to find the marking or label easily and read it without strain.

2. Indelibility must be such that the wording will not fade, wash off or otherwise be obliterated by moisture, cold or other adverse factors that such *shrimp or crawfish* are normally subjected to in storage and transportation.

3. Permanency must be such that, in any reasonably foreseeable circumstance, the marking or label shall remain on the container until it reaches the ultimate retail purchaser unless it is deliberately removed. The marking or label must be capable of surviving normal distribution and storing.

D. When *foreign shrimp or crawfish* are combined with domestic *shrimp or crawfish*, or products made from or containing domestic *shrimp or crawfish*, the marking or label on the container or package or the sign included with any display shall clearly show the country of origin of the *foreign shrimp or crawfish*.

E. In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, appear on any container or package containing *foreign shrimp or crawfish*, or any sign advertising such *foreign shrimp or crawfish* for sale, and those words, letters or names may mislead or deceive the ultimate retail purchaser as to the actual country of origin of the *shrimp or crawfish*, then the name of the country of origin preceded by "made in," "product of," or other words of similar meaning shall appear on the marking, label or sign. The wording indicating that the *shrimp or crawfish* is from a country other than the United States shall be placed in close proximity to the words, letters or name that indicates the *shrimp or crawfish* is a product of the United States in a legible, indelible and permanent manner. No provision of this Section is intended to or is to be construed as authorizing the use of the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, if such use is deceptive, misleading or prohibited by other federal or state law.

F. *Foreign shrimp or crawfish* shall not have to be marked or labeled with the country of origin if such *shrimp or crawfish* are included as components in a product manufactured in the United States and the *shrimp or crawfish* is substantially transformed in the manufacturing of the final product. But in no event shall thawing, freezing, packing, packaging, re-packing, re-packaging, adding water, de-heading, de-veining, peeling, partially cooking or

combining with domestic *shrimp or crawfish* shall not be considered to be a substantial transformation.

G The commissioner shall have all the powers granted to him by law, or in accordance with any cooperative endeavor with any other public agency, to enforce this Section, including the issuance of stop-sale, hold or removal orders and the seizing of *shrimp or crawfish* mislabeled or misbranded as to the country of origin.

H. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 30:

Bob Odom
Commissioner

0310#005

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.911, 1111, and 2105)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the Rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

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

This Declaration of Emergency is effective September 11, 2003, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

Part IV. Student Financial Assistance

Higher Education Scholarship and Grant Programs

Chapter 9. TOPS Teacher Award

§911. Discharge of Obligation

A. - B.4. ...

C. Discharging the loan by Monetary Repayment. Recipients who elect not to discharge the obligation by teaching and who are not eligible for discharge by cancellation must repay the loan principal plus accrued interest and any collection costs incurred according to the following terms and conditions:

1. - 3.c. ...

4. unless the recipient qualifies for reduced payments as provided in §2105.H, the amount to be repaid annually will be the greater of:

a. the amount necessary to repay the capitalized loan principal within 10 years; or

b. \$1,200 per year or the unpaid balance, whichever is less;

C.5. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998), amended LR 26:69 (January 2000), LR 26:1603 (August 2000), LR 27:1858 (November 2001), LR 30:

Chapter 11. Rockefeller State Wildlife Scholarship

§1111. Discharge of Obligation

A. - B. ...

C. Monetary Repayment. Recipients who do not discharge the obligation by graduating in an eligible major and who are not eligible for discharge by cancellation must repay the loan principal, plus accrued interest and any collection costs incurred in accordance with the following terms and conditions:

1. - 3. ...

4. unless the recipient qualifies for reduced payments as provided in §2105.H, the annual repayment amount will be the greater of:

a. the amount necessary to repay the capitalized loan principal within seven years; or

b. \$1,200 per year or the unpaid balance, whichever is less;

C.5. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1860 (November 2001), LR 30:

Chapter 21. Miscellaneous Provisions and Exceptions

§2105. Repayment Obligation, Deferment, Cancellation and Reduced Payments

A. - G.2. ...

H. Reduced Payments

1. Recipients who do not discharge the obligation by graduating in an eligible major and who are not eligible for discharge by cancellation must repay the loan principal, plus accrued interest and any collection costs incurred. Recipients in repayment status may request a temporary hardship repayment schedule that may be approved by LOSFA, upon receipt of documentation evidencing one or more of the following conditions:

a. the recipient is receiving federal or state public assistance;

b. the recipient's total gross, yearly income does not exceed the current federal poverty level for his/her state;

c. the recipient is experiencing a severe temporary medical condition and is unable to meet his/her financial obligations; or

d. the recipient has experienced a severe personal catastrophe or calamity and is temporary unable to meet his/her financial obligations.

2. If allowed by LOSFA, such reduced payments will continue as long as the condition(s) exist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1868 (November 2001).

George Badge Eldredge
General Counsel

0310#007

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies
(LAC 50:V.Chapter 3)

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule to adopt the provisions governing the disproportionate share payment methodologies for hospitals in May of 1999 (*Louisiana Register, Volume 25, Number 5*). The May 20, 1999 Rule was later amended to change the criteria used to define rural hospitals and to clarify the policy governing final payments and adjustments (*Louisiana Register, Volume 29, Number 1*).

The Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000 made provisions for public hospitals to receive disproportionate share hospital adjustment payments up to 175 percent of their allowable uncompensated care cost. Act 1024 of the 2001 Regular Session directed the Department of Health and Hospitals, as the federally designated Medicaid state agency, to specify in the Medicaid State Plan how uncompensated care is defined and calculated and to determine what facilities qualify for uncompensated care payments and the amount of the payments. In determining payments, the department shall prioritize local access to primary health care for the medically indigent and uninsured, and shall not include unreimbursed costs resulting from excess inpatient hospital capacity. For the period July 1, 2003 through June 30, 2005, the state's Medicaid uncompensated care payments shall be distributed in proportion to the amount and type of uncompensated care reported by all qualified facilities as required by Senate Bill No. 883 of the 2001 Regular Session. Nothing shall be construed to impede or preclude the Department of Health and Hospitals from implementing the provisions in the Rural Hospital Preservation Act. Further, Senate Concurrent Resolution 94 of the 2001 Regular Session and Senate Concurrent Resolution 27 of the 2002 Regular Session of the Louisiana Legislature requested the Department of Health and Hospitals, the Louisiana State

University Health Sciences Center-Health Services Division, and the Louisiana State University Health Sciences Center to study and recommend common acute hospital payment methodologies for state and non-state hospitals participating in the Medicaid Program and the Medicaid Disproportionate Share Program. In accordance with the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000 and the findings and recommendations contained in the final reports of the study committees, the department repealed and replaced all provisions governing disproportionate share hospital payments (*Louisiana Register, Volume 29, Number 6*). Acts 14, 526 and 1148 of the 2003 Regular Session of the Louisiana Legislature directed the department to amend the qualifying criteria and the payment methodology for disproportionate share payments to small rural hospitals. In compliance with Acts 14, 526 and 1148, the Bureau amended the July 1, 2003 Emergency Rule (*Louisiana Register, Volume 29, Number 9*). This Emergency Rule is being promulgated to continue provisions contained in the July 1, 2003 Rule. This action is being taken to enhance federal revenue.

Effective October 30, 2003 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby repeals and replaces all Rules governing disproportionate share hospital payment methodologies.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part V. Medical Assistance ProgramC Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 3. Disproportionate Share Hospital Payment Methodologies

§301. General Provisions

A. The reimbursement methodology for inpatient hospital services incorporates a provision for an additional payment adjustment for hospitals serving a disproportionate share of low income patients.

B. The following provisions govern the disproportionate share hospital (DSH) payment methodologies for qualifying hospitals.

1. Total cumulative disproportionate share payments under any and all disproportionate share hospital payment methodologies shall not exceed the federal disproportionate share state allotment for Louisiana for each federal fiscal year or the state appropriation for disproportionate share payments for each state fiscal year. The department shall make necessary downward adjustments to hospital's disproportionate share payments to remain within the federal disproportionate share allotment and the state disproportionate share appropriated amount.

2. Appropriate action including, but not limited to, deductions from DSH, Medicaid payments and cost report settlements shall be taken to recover any overpayments resulting from the use of erroneous data, or if it is determined upon audit that a hospital did not qualify.

3. DSH payments to a hospital determined under any of the methodologies described in this Chapter 3 shall not exceed the hospital's net uncompensated cost as defined in §305-313 or the disproportionate share limits as defined in Section 1923(g)(1)(A) of the Social Security Act for the state fiscal year to which the payment is applicable. Public hospitals included in §305, §307 and §313 shall receive

DSH payments up to 175 percent of the hospital's net uncompensated costs.

4. Qualification is based on the hospital's latest filed cost report as of March 31 of the current state fiscal year and related uncompensated cost data as required by the department. Qualification for small rural hospitals is based on the latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports and related uncompensated cost data will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

5. Hospitals and/or units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments for the remainder of the current DSH pool payment cycle and thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§303. Disproportionate Share Hospital Qualifications

A. In order to qualify as a disproportionate share hospital, a hospital must:

1. have at least two obstetricians who have staff privileges and who have agreed to provide obstetric services to individuals who are Medicaid eligible. In the case of a hospital located in a rural area (i.e., an area outside of a metropolitan statistical area), the term *obstetrician* includes any physician who has staff privileges at the hospital to perform nonemergency obstetric procedures; or

2. treat inpatients who are predominantly individuals under 18 years of age; or

3. be a hospital which did not offer nonemergency obstetric services to the general population as of December 22, 1987; and

4. have a utilization rate in excess of one or more of the following specified minimum utilization rates:

a. Medicaid utilization rate is a fraction (expressed as a percentage). The numerator is the hospital's number of Medicaid (Title XIX) inpatient days. The denominator is the total number of the hospital's inpatient days for a cost reporting period. Inpatient days include newborn and psychiatric days and exclude swing bed and skilled nursing days. Hospitals shall be deemed disproportionate share providers if their Medicaid utilization rates are in excess of the mean, plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments; or

b. hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of 25 percent. Low-income utilization rate is the sum of:

i. the fraction (expressed as a percentage). The numerator is the sum (for the period) of the total Medicaid patient revenues plus the amount of the cash subsidies for

patient services received directly from state and local governments. The denominator is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the cost reporting period from the financial statements; and

ii. the fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in §303.A.4.b.i in the period which are reasonably attributable to inpatient hospital services. The denominator is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero. This numerator shall not include contractual allowances and discounts (other than for indigent patients ineligible for Medicaid), i.e., reductions in charges given to other third-party payers, such as HMOs, Medicare, or Blue Cross; nor charges attributable to Hill-Burton obligations. A hospital providing "free care" must submit its criteria and procedures for identifying patients who qualify for free care to the Bureau of Health Services Financing for approval. The policy for free care must be posted prominently and all patients must be advised of the availability of free care and the procedures for applying. Hospitals not in compliance with free care criteria will be subject to recoupment of DSH and Medicaid payments; or

c. hospitals shall be deemed disproportionate share providers eligible for reimbursement for inpatient services if their inpatient uninsured utilization rates are in excess of 3 percent.

i. inpatient uninsured utilization rate is a fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for inpatient services furnished to uninsured persons for the period. The denominator is the total amount of the hospital's charges for inpatient services furnished to all persons for the period; or

d. hospitals shall be deemed disproportionate share providers eligible for reimbursement for outpatient services if their outpatient uninsured utilization rates are in excess of three percent.

i. outpatient uninsured utilization rate is a fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for outpatient services furnished to uninsured persons for the period. The denominator is the total amount of the hospital's charges for outpatient services furnished to all persons for the period; or

5. effective November 3, 1997, be a small rural hospital as defined in §311.A.1.a-h; and

6. in addition to the qualification criteria outlined in §303.A.1-5, effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least one percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§305. High Uninsured Hospitals

A. Definitions

High Uninsured Utilization Rate Hospital Ca hospital that has an uninsured utilization rate in excess of the mean,

plus one standard deviation of the uninsured utilization rates for all hospitals.

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients.

B. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from *net uncompensated cost* are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an annual attestation that patients whose care is included in the hospitals' *net uncompensated cost* are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

C. DSH payments to individual high uninsured hospitals shall be equal to 100 percent of the hospital's *net uncompensated costs* and subject to the adjustment provision in §301.B. DSH payments to individual public high uninsured hospitals shall be up to 175 percent of the hospital's *net uncompensated costs* and subject to the adjustment provision in §301.B.

D. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each high uninsured hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying high uninsured hospitals during the state fiscal year; and then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

E. A hospital receiving DSH payments shall furnish emergency and nonemergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§307. Other Uninsured Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients.

Other Uninsured Utilization Rate Hospital—a qualifying hospital that is not included in §305, §311, §313 or §315.

B. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from *net uncompensated cost* are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an attestation that patients whose care is included in the hospitals' *net uncompensated cost* are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

C. DSH payments to an individual other uninsured hospital shall be based on the hospital's uninsured utilization rate and the distribution of all other uninsured hospitals' uninsured utilization rates. DSH payments to hospitals in the first quintile of the distribution shall be equal to 25 percent of the hospital's *net uncompensated costs* and subject to the adjustment provision in §301.B. DSH payments to hospitals in the second through the fifth quintiles of the distribution shall be equal to 40, 55, 70 and 85 percent of the hospital's *net uncompensated cost*, respectively. DSH payments to individual public other uninsured hospitals shall be up to 175 percent of the hospital's *net uncompensated costs* and subject to the adjustment provision in §301.B.

D. In the event it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each other uninsured hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying other uninsured hospitals during the state fiscal year; and then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

E. A hospital receiving DSH payments shall furnish emergency and nonemergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§309. High Medicaid Hospitals

A. Definition. *High Medicaid Utilization Rate Hospital*—a hospital that has a Medicaid utilization rate in excess of the mean, plus one standard deviation of the Medicaid

utilization rates for all hospitals in the state receiving payments and that is not included in §305.

1. Medicaid utilization rate is a fraction (expressed as a percentage). The numerator is the hospital's number of Medicaid (Title XIX) inpatient days. The denominator is the total number of the hospital's inpatient days for a cost-reporting period.

B. DSH payments to individual high Medicaid hospitals shall be based on actual paid Medicaid days for a six-month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Annualization of days for the purposes of the Medicaid days pool is not permitted. The amount will be obtained by DHH from a report of paid Medicaid days by service date.

C. Disproportionate share payments for individual high Medicaid hospitals shall be calculated based on the product of the ratio determined by:

1. dividing each qualifying high Medicaid hospital's actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by DHH from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified high Medicaid hospitals. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days; and

2. multiplying by an amount of funds for high Medicaid hospitals to be determined by the director of the Bureau of Health Services Financing.

D. A pro rata decrease necessitated by conditions specified in §301.B. for high Medicaid hospitals will be calculated based on the ratio determined by:

1. dividing the hospitals' Medicaid days by the Medicaid days for all qualifying high Medicaid hospitals; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§311. Small Rural Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Small Rural Hospital—a hospital (excluding a long-term care hospital, rehabilitation hospital, or freestanding psychiatric hospital but including distinct part psychiatric units) that meets the following criteria:

a. had no more than 60 hospital beds as of July 1, 1994, and is located in a parish with a population of less than 50,000 or in a municipality with a population of less than 20,000; or

b. meets the qualifications of a sole community hospital under 42 CFR §412.92(a); or

c. had no more than 60 hospital beds as of July 1, 1999 and is located in a parish with a population of less than 17,000 as measured by the 1990 census; or

d. had no more than 60 hospital beds as of July 1, 1997 and is a publicly-owned and operated hospital that is located in either a parish with a population of less than 50,000 or a municipality with a population of less than 20,000; or

e. had no more than 60 hospital beds as of June 30, 2000 and is located in a municipality with a population, as measured by the 1990 census, of less than 20,000; or

f. had no more than 60 beds as of July 1, 1997 and is located in a parish with a population, as measured by the 1990 and 2000 census, of less than 50,000; or

g. was a hospital facility licensed by the department that had no more than 60 hospital beds as of July 1, 1994, which hospital facility:

i. has been in continuous operation since July 1, 1994;

ii. is currently operating under a license issued by the department; and

iii. is located in a parish with a population, as measured by the 1990 census, of less than 50,000; or

h. has no more than 60 hospital beds or has notified the department as of March 7, 2002 of its intent to reduce its number of hospital beds to no more than 60, and is located in a municipality with a population of less than 13,000 and in a parish with a population of less than 32,000 as measured by the 2000 census; or

i. has no more than 60 hospital beds or has notified DHH as of December 31, 2003, of its intent to reduce its number of hospital beds to no more than 60; and

i. is located, as measured by the 2000 census, in a municipality with a population of less than 7,000;

ii. is located, as measured by the 2000 census, in a parish with a population of less than 53,000; and

iii. is located within 10 miles of a United States military base; or

j. has no more than 60 hospital beds as of September 26, 2002; and

i. is located, as measured by the 2000 census, in a municipality with a population of less than 10,000; and

ii. is located, as measured by the 2000 census, in a parish with a population of less than 33,000; or

k. has no more than 60 hospital beds as of January 1, 2003; and

i. is located, as measured by the 2000 census, in a municipality with a population of less than 11,000; and

ii. is located, as measured by the 2000 census, in a parish with a population of less than 90,000.

B. Payment based on uncompensated cost for qualifying *small rural hospitals* shall be in accordance with the following three pools:

1. *Public (Nonstate) Small Rural Hospitals*—*small rural hospitals* as defined in §311.A.1, which are owned by a local government.

2. *Private Small Rural Hospitals*—*small rural hospitals* as defined in §311.A.1, that are privately owned.

3. *Small Rural Hospitals*—small rural hospitals as defined in §311.A.1.i - §311.A.1.k.

C. Payment to hospitals included in §311.B.1 and §311.B.2 is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for each pool. Payments to all hospitals included in §311.B.3 shall not exceed \$1,200,000 in aggregate and shall be reimbursed the lower of \$300,000 per hospital or each hospital's actual uncompensated cost per their latest filed cost report. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

D. Pro Rata Decrease

1. A pro rata decrease necessitated by conditions specified in §301.B. for rural hospitals described in this §311 will be calculated using the ratio determined by:

a. dividing the qualifying rural hospital's uncompensated costs by the uncompensated costs for all rural hospitals in §311; then

b. multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state DSH appropriated amount.

2. No additional payments shall be made after the final payment for the state fiscal year is disbursed by the department. Recoupment shall be initiated upon completion of an audit if it is determined that the actual uncompensated care costs for the state fiscal year for which the payment is applicable is less than the actual amount paid.

E. Qualifying hospitals must meet the definition for a *small rural hospital* contained in §311.A.1. Qualifying hospitals must maintain a log documenting the provision of uninsured care as directed by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§313. Public State-Operated Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Public State-Operated Hospital—a hospital that is owned or operated by the State of Louisiana, Department of Health and Hospitals.

B. DSH payments to individual public state-owned or operated hospitals shall be up to 175 percent of the hospital's *net uncompensated costs*. Final payment will be based on the uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

C. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each public state-owned or operated hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public state-owned or operated hospitals during the state fiscal year; and then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§315. Psychiatric Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Psychiatric Hospital—a free standing *psychiatric hospital* that is not included in §313.

B. DSH payments to individual free standing *psychiatric hospitals* shall be based on actual paid Medicaid days for a six-month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Annualization of days for the purposes of the Medicaid days pool is not permitted. The amount will be obtained by DHH from a report of paid Medicaid days by service date.

C. Disproportionate share payments for individual free standing *psychiatric hospitals* shall be calculated based on the product of the ratio determined by:

1. dividing each qualifying free standing *psychiatric hospital's* actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by DHH from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified free standing *psychiatric hospitals*. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days; and

2. multiplying by an amount of funds for free standing psychiatric to be determined by the director of the Bureau of Health Services Financing

D. A pro rata decrease necessitated by conditions specified in §301.B. for hospitals in §315 will be calculated based on the ratio determined by:

1. dividing the hospitals' Medicaid days by the Medicaid days for all qualifying hospitals in §315; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

AUTHORITY NOTE: Promulgated in accordance with RS. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

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

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

0310#082

DECLARATION OF EMERGENCY

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

Early and Periodic Screening, Diagnosis and
Treatment Dental Program C Reimbursement
(LAC 50:XV.6903)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.6903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II) requires national standards for electronic health care transactions and national identifiers for providers, health plans, and employers (*Federal Register*, Volume 65, Number 160). This includes standardized procedure codes and definitions. The Department of Health and Hospitals, Bureau of Health Services Financing is required to implement these codes and definitions or face monetary sanctions. In compliance with HIPAA requirements, the bureau clarified the descriptions for two Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental procedure codes and adjusted the reimbursement rates to conform with the HIPAA compliant procedure code descriptions (*Louisiana Register*, Volume 29, Number 2).

This Emergency Rule is promulgated to continue the provisions of the February 21, 2003 Emergency Rule. This action is being taken to avoid federal sanctions by complying with the mandates of the Health Insurance Portability and Accountability Act.

Effective for dates of services on or after October 21, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing clarifies the procedure descriptions and adjusts the reimbursement fees for the following Early and Periodic Screening, Diagnosis and Treatment dental procedure codes.

**Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 5. Early and Periodic Screening,
Diagnosis, and Treatment**

Chapter 69. Dental

§6903. Reimbursement

A. Reimbursement Fees are adjusted for certain designated procedure codes to the following rates.

Procedure Code	Procedure	Rate
* * *		
[See Prior Text in 00120 - 02931]		
02950	Core Buildup, including any pins	\$55
02954	Prefabricated Post and Core in addition to crown	\$75
* * *		
[See Prior Text in 03220 - 07210]		

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

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

David W. Hood
Secretary

0310#080

DECLARATION OF EMERGENCY

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

Early Periodic Screening, Diagnosis and
Treatment Program Early Intervention Services
for Infants and Toddlers with Disabilities
(LAC 50:XV.Chapter 81)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq.

Emergency Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing published an Emergency Rule repealing targeted case management (family service coordination) as a covered service under the Early Periodic Screening, Diagnosis and Treatment Program early intervention services for infants and toddlers with disabilities (*Louisiana Register*, Volume 29, Number 9). The Department has now determined that it is necessary to

rescind this Emergency Rule and notification is provided to interested persons through this medium.

David W. Hood
Secretary

0310#085

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
Early Intervention Services for Infants and Toddlers with Disabilities
(LAC 50:XV.Chapter 81)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:XV. Chapter 81 in the Medical Assistance Program as authorized by LA R.S. 36:254 pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

Congress enacted the Individuals with Disabilities Education Act (IDEA) Amendments of 1997 to ensure the availability of appropriate public education and related services and supports to children with disabilities and their families. Part C of IDEA addresses the special needs of young children through the provision of financial assistance to States to implement and maintain a statewide, comprehensive, coordinated, multi-disciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families [34 CFR 303.1(a)].

Louisiana's early intervention system under Part C of IDEA, is a comprehensive, coordinated, family centered system of educational and health services for infants and toddlers age birth to age three who have a physical or mental condition, but have been determined to be delayed in cognitive, physical, communication, social/emotional or adaptive development. Previously, the Department of Education served as the lead agency responsible for administering Part C of Idea. However, the Governor mandated the transfer of Part C from the Department of Education, Division of Special Populations to the Department of Health and Hospitals, Office of Public Health.

In conjunction with the transfer of Part C, the Bureau of Health Services Financing established early intervention services for infants and toddlers with disabilities under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program (*Louisiana Register, Volume 29, Number 7*) This Rule is being promulgated to continue the provisions of the July 7, 2003 Emergency Rule. Medicaid covered early intervention services include physical therapy, occupational therapy, speech therapy, audiology services, psychological services and targeted case management. These individual services are currently furnished to Medicaid recipients through the outpatient hospital, home health, EPSDT health

services, rehabilitation center, and targeted case management service programs. The individual services will continue to be covered through these service programs.

This action is necessary to promote the health and welfare of Medicaid eligible infants and toddlers with disabilities by enhancing the availability of early intervention services and to avoid possible federal sanctions.

Effective November 5, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes early intervention services for infants and toddlers with disabilities under the Medicaid Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program in conjunction with the transfer of Part C of the Individuals with Disabilities Education Act.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 81. Early Intervention Services

§8101. Reserved.

§8103. Recipient Qualifications

A. In order to qualify for Medicaid covered early intervention services, an individual must meet the following qualifications:

1. be an Medicaid eligible infant or toddler age birth to age three; and
2. be enrolled to participate in the Part C program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§8105. Covered Services

A. Medicaid covered early intervention services shall be limited to the following services:

1. physical therapy;
2. occupational therapy;
3. speech therapy;
4. audiology services;
5. psychological services; and
6. targeted case management (family service coordination).

B. Psychological services includes diagnosis and psychological counseling/therapy for the child and his/her family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§8107. Provider Participation

A. Provider participation shall be the Title V agency, the lead agency responsible for the administration of the provisions of Part C of the Individuals with Disabilities Education Act in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§8109. Reimbursement

A. The reimbursement methodology for Medicaid covered early intervention services shall be a negotiated rate

based on the cost for the provision of services in accordance with the terms of the intra-agency agreement between the Medicaid Program and the Title V agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

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

David W. Hood
Secretary

0310#083

DECLARATION OF EMERGENCY

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

Inpatient Psychiatric Services Public State-Owned or Operated Hospitals Reimbursement Increase

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule which established the prospective reimbursement methodology for inpatient psychiatric hospital services provided in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital (*Louisiana Register, Volume 19, Number 6*). This Rule was subsequently amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates for inpatient psychiatric services in those years when the rates are not rebased (*Louisiana Register, Volume 25, Number 5*).

The bureau now proposes to rebase the reimbursement rates paid to public state owned or operated hospitals for inpatient psychiatric hospital services to the 50th percentile of costs per day for services based on cost reports ending in state fiscal year 2002. This action is being taken to protect the health and welfare of Medicaid recipients by encouraging the continued participation of hospitals that furnish psychiatric services in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures for public inpatient psychiatric services by approximately \$2,871,754 for state fiscal year 2003-2004.

Emergency Rule

Effective for dates of service October 20, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for inpatient psychiatric hospital services provided in a state owned or operated free-standing psychiatric hospital or distinct part psychiatric unit to a per diem rate based on the 50th percentile facility for costs as reported on the cost report for the year ending between July 1, 2001 and June 30, 2002. The costs utilized to determine the 50th percentile facility will include all free-standing psychiatric hospitals and distinct part psychiatric units providing services to Medicaid recipients in the state. Costs will be trended to the midpoint of the rate year using the Medicare PPS Market Basket Index. The application of inflationary adjustments in subsequent years shall be contingent on the appropriation of funds by the Legislature.

Implementation of the provisions of this Rule will be delayed until November 14, 2003 and 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 the Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0310#086

DECLARATION OF EMERGENCY

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

Mental Health Rehabilitation ProgramCSanctions

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule, effective June 20, 1996 that restructured the Mental Health Rehabilitation (MHR) Program and established provisions governing recipient eligibility, service delivery requirements and reimbursement methodology (*Louisiana Register, Volume 22, Number 6*). The June 20, 1996 Rule was amended to revise provider participation requirements by establishing enrollment and certification criteria (*Louisiana Register, Volume 24, Number 7*). The certification criteria included the suspension and/or termination of provider certification. The bureau promulgated an Emergency Rule to amend the July 20, 1998 Rule by revising the provisions governing the grounds and

levels of sanctions and the notice and appeal procedures (*Louisiana Register, Volume 29, Number 10*). This Rule is being promulgated to continue the provisions of the October 20, 2003 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the July 20, 1998 Rule to revise provisions governing the grounds and levels of sanctions and the notice and appeal procedures for Mental Health Rehabilitation (MHR) agencies. The following provisions supersede, amend and replace subsections II(G) and X of the July 20, 1998 Rule.

I. ...

II. Provider Participation

A. Application Requirements. Currently enrolled and prospective providers of mental health rehabilitation services must apply to the Bureau of Health Services Financing or its designee for certification as a mental health rehabilitation provider. The provider must have separate Medicaid provider numbers for each region where they are enrolled to do business. They have the ultimate responsibility for the delivery of all services, including those delivered through contractual agreement(s) in these regions. The prospective provider must provide documentation that the agency meets the following requirements and assurances to be enrolled as a Medicaid provider of MHR services:

1. completed PE 50 and addendum, and a completed disclosure of ownership form;
2. line of credit from a federally-insured, licensed, lending agency for at least \$20,000 as proof of adequate finances. Nonprofit agencies which have been in existence for at least five years and have a valid audit, by a certified public accountant, of their most recent fiscal year, which verifies the viability of the agency are not required to meet this standard;
3. statement identifying the population to be served: adults with serious mental illness; children with emotional/behavior disorder; or both; staff must have been credentialed by the Office of Mental Health to provide services to each designated population group (children and/or adults);
4. proof of general liability insurance of at least \$150,000 and professional liability insurance of at least \$150,000. The certificate holder shall be the Department of Health and Hospitals;
5. identification of the agency's main offices, all offices billing with the main office's Medicaid provider number, and all regions in which the agency conducts business;
6. résumés and documentation of qualifications for the current program director, the psychiatric director and all clinical manager(s), including documentation of licensure;
7. disclosure, in writing, of any financial transaction with the agency in which a member of the governing body, administrative personnel, or his/her immediate family is involved and/or a familial relationship with any other entity receiving Medicaid funds;

8. a copy of a current adult day care license issued by Department of Social Services if providing group psychosocial skills/training for adults;

9. certifications and licenses must reflect the correct agency name and address;

10. certification by Office of Mental Health that the provider meets the criteria listed in B below.

B. Certification Requirements. Upon receipt of the application, the Bureau of Health Services Financing or its designee will conduct an onsite visit within 30 working days of receipt of a completed enrollment packet to assure that the agency meets the following enrollment guidelines:

1. Demonstrate an administrative structure to provide mental health rehabilitation services as evidenced by written policies and procedures to include:

- a. the composition and responsibilities of the governing body;
- b. administrative files for employment and personnel including job descriptions, an organization chart, time sheets, payroll records and hiring practices;
- c. personnel records of each staff member documenting experience, education and training in accordance with MHR staffing requirements;
- d. compliance with the ongoing MHR training requirements;
- e. procedure for the maintenance, security, and confidentiality of residents' records;
- f. consumers' rights including procedures for resolution of grievances;
- g. procedures for reporting cases of abuse and neglect as defined by state and federal regulations;
- h. procedures for subcontracting of services, including copies of leases, contracts and service agreements.

2. Demonstrate adequate financial resources; a system of business management and staffing; and fiscal accountability to assure maintenance of complete and accurate accounts, books and records in keeping with generally accepted accounting principles, as follows:

- a. maintain a preliminary or current detailed budget for the agency;
- b. maintain adequate funds to reimburse staff and provide necessary services;
- c. maintain a separate business bank account;
- d. submit a copy of an annual audit of the MHR agency conducted by an independent certified public accountant, in accordance with generally accepted accounting principles, within 90 days of the close of the agency's first year of business and annually thereafter.

3. Demonstrate the capacity to provide all services within the MHR program directly or through a subcontract as evidenced by:

- a. identification of direct services to be provided, including a written program philosophy and agency goals;
- b. identification of the role of clinical management within the agency;
- c. identification of services to be provided by subcontractors;
- d. identification of professional consultants, including psychologists, psychiatrists, and/or physicians, and their role within the agency;
- e. maintenance of a written plan to determine the effectiveness of the MHR program including a Continuous

Quality Improvement Plan and a consumer satisfaction component.

4. An agency shall be required to have regular posted business office hours and be fully operational at least eight hours a day, five days a week between 7 a.m. and 7 p.m. Services shall be available on an emergency basis 24 hours a day, seven days a week. (If an agreement is made with another entity, a signed agreement shall be on file.)

5. Outreach offices shall serve the same or part of the geographic area approved for the main office.

a. The outreach office shall retain all clinical records for its consumers. Duplicate records need not be maintained at the main office, but shall be made available to federal/state surveyors during any review upon request. The main office shall maintain a listing of all clients and the outreach office seeing the client.

b. Original personnel files are to be kept at the main office.

c. A statement of personnel policies is maintained in each outreach office for staff usage.

d. Approval for outreach offices will be issued, in writing, by the bureau or its designee for one year and will be renewed at time of recertification.

C. Failure to Meet Certification. If the agency fails to meet certification requirements, a letter identifying the problem areas will be sent to the agency. Within 60 days, the agency must request a second review to determine if all deficiencies were corrected. If the agency is unable to correct the deficiencies or does not request a second review, the agency is not allowed to request another site visit for one year after the initial request.

D. Recertification. Each year the agency must reapply to the BHSF or its designee for recertification 90 days prior to the expiration of the certification. The agency must submit all information outlined above. The agency will then be reviewed on-site by BHSF, or its designee, to assure the agency continues to meet certification requirements. If the agency meets the requirements, a one-year certification will be issued.

E. Failure to Meet Recertification. If the agency does not meet the standards, the agency will be notified of all deficiencies, in writing, within 15 working days following the on-site review. The agency shall submit a corrective action plan which shall be received by the bureau or its designee within 10 days of the date of the letter. A follow-up survey will be conducted (within 60 days of citation date) whenever necessary to assure correction of deficiencies. When applicable, deficiencies may be cleared at the exit interview and/or by mail.

F. Notification of Changes

1. The bureau or its designee shall be notified, in writing, of any of the following changes within five working days of the change:

- a. location;
- b. address;
- c. telephone number;
- d. hours of operation/24 hour contact procedure;
- e. ownership (controlling): 5 percent or more of controlling interest;
- f. administrator;

g. program director, clinical manager, and psychiatric director;

h. change in address or phone number of any outreach office;

i. any subcontracting change that is in addition to; or deletion of subcontractors.

2. Any request for change in location of geographic area served must include written approval from BHSF, or its designee, for the proposed area.

3. Change of Ownership. If the agency expects to undergo a change of ownership, a representative of the buyer must obtain a packet entitled "Change of Ownership (CHOW) Packet" from the bureau and complete the following information before purchasing the agency:

- a. PE-50;
- b. a disclosure of ownership form;
- c. a certified copy of the bill of sale and articles of incorporation which must be submitted to the bureau within five working days after the act of sale;
- d. the new name and address of the agency;
- e. administrative personnel.

4. Closure of MHR Agency. If at any time the agency is no longer operational, the certification shall be deemed invalid and shall be returned to the bureau within five working days. The agency owner is responsible for notifying the bureau of the location of all records. To be operational, an agency must:

- a. have at least five active consumers at the time of any survey other than an initial survey;
- b. be able to accept referrals at any time during regular business hours;
- c. have adequate staff to meet the needs of current consumers;
- d. have required designated staff on the premises at all times during business hours;
- e. be immediately available by telecommunications 24 hours per day.

G. Grounds for Sanctions

1. The following are grounds for the sanctioning of a Mental Health Rehabilitation (MHR) agency:

- a. failure to comply with any and all certification, administrative or operational requirements at all times;
- b. failure to provide the full range of services specified in the service agreement;
- c. failure to uphold patient rights when violations may or could result in harm or injury;
- d. failure to notify proper authorities of all suspected cases of neglect, criminal activity, or mental or physical abuse which could potentially cause, or actually causes harm to the patient;
- e. failure to maintain adequate qualified staff to provide necessary services;
- f. failure to adequately document that services that were billed were actually performed;
- g. failure of subcontractors to meet all required standards;
- h. failure to allow entry to the MHR agency or subcontracted agency or access to any requested records during any survey or failure to fully cooperate with a survey or investigation by DHH or its designee.

- i. failure to comply with all reporting requirements in a timely manner;
 - j. failure to provide documentation, upon request from DHH, that verifies compliance with any or all requirements as set forth in this Rule;
 - k. failure to comply with any or all federal or state regulations or laws applicable to either the Mental Health Rehabilitation Program or the Medical Assistance Program;
 - l. failure to protect consumers from harmful actions of agency employees; including, but not limited to health and safety, coercion, threat, intimidation, solicitation and harassment;
 - m. failure to remain fully operational at all times for any reason other than a disaster;
 - n. if in a one-year period, the frequency, pattern or nature of valid complaints filed against a MHR agency are substantiated;
 - o. an owner or agency staff knowingly, or with reason to know, makes a false statement of a material fact in the:
 - i. application for enrollment;
 - ii. data forms;
 - iii. clinical record;
 - iv. any matter under investigation by the department; or
 - v. certification/recertification process;
 - p. if an agency uses false, fraudulent or misleading advertising;
 - q. if any MHR agency fails to disclose a conviction for a criminal offense by a person who has ownership or controlling interest in the provider agency, or by a person who is an agent or managing employee of the MHR agency; or
 - r. if a preponderance of the evidence indicates failure to provide optimum care in accordance with current standards of practice; or
 - s. if there is reasonable evidence of bribery, solicitation or harassment by any MHR agency staff or subcontractor to use the services of any particular facility.
- H. Sanctions**
1. The following sanctions may be applied to any MHR agency, independently, consecutively and/or collectively. These sanctions may be imposed in addition to those sanctions cited in the Surveillance and Utilization Systems (SURS) Rule, LAC 50:I.Chapter 41 (*Louisiana Register, Volume 29, Number 4*).
 - a. The MHR agency may be given a written notice of deficiencies with the opportunity to submit a written plan of correction within 10 days from receipt of the letter to the Office of Mental Health. The Office of Mental Health has 30 working days from the receipt of the corrective action plan to review this plan and accept, deny or require additional modifications and will notify the provider in writing of its determination. Validation of the implementation of the corrective action plan may include an onsite visit whenever necessary to assure correction of deficiencies. If the agency fails to submit a corrective action plan within 10 days from the receipt of the letter, the Department will move to terminate the provider.

- b. The MHR agency's staff may be required to complete education and training in MHR policy and billing procedures as well as training relevant to providing quality MHR services.
- c. Payments for services rendered may be suspended or withheld until compliance is verified by DHH.
- d. The MHR agency may be required to void service logs which would result in recoupment of previous payments.
- e. The MHR agency may be terminated from participation in the Medicaid Program.
- f. The agency may be terminated as a MHR provider and all authorizations may be canceled. Terminated agencies, including all of their owners, officers, or directors may not reapply for certification as a MHR provider for a period of up to five years. The provider shall cooperate with DHH in assisting the recipient in continuing MHR services with another provider.
- g. The agency shall be denied the ability to admit new clients during the appeals process.
- h. New requests for authorization may be suspended.
- i. The MHR agency's current clients shall be moved to another MHR agency if DHH determines that the health and safety of that agency's clients is being compromised. Clients will have freedom of choice regarding the selection of service providers.

III. - VIII. ...

IX. Notice and Appeal Procedure

A. An applicant or certificant aggrieved by any action taken by the department pursuant to II(C), II(E) or II(G) may appeal such action by submitting a written request for appeal to the Secretary of the Department. The request for appeal must be received by the Secretary within 30 days after the receipt of the written notification of the department's action and must specify, in detail, the reasons for the appeal and the reasons why the applicant or certificant feels aggrieved by the department's action. All appeals filed pursuant to this Rule shall not be suspensive. Sanctions shall take effect immediately upon notice by the Department of Health and Hospitals. The appeal rights contained in this Rule are the sole MHR appeal rights within the department.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 24, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

0310#089

DECLARATION OF EMERGENCY

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

Personal Care Services CLong Term
(LAC 50:XV.12903, 12905, and 12909)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.12903, 12905, and 12909 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a Rule to establish the provisions governing coverage of personal care services as an optional service under the Medicaid State Plan (*Louisiana Register, Volume 29, Number 6*). The bureau now proposes to amend the June 20, 2003 Rule to clarify covered services, revise the recipient qualifications and define the term "legally responsible relative."

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring that services can address the needs of the targeted population. It is anticipated that implementation of this Emergency Rule will be cost neutral for state fiscal year 2003-2004.

Effective October 1, 2003 or upon approval of the Centers for Medicare and Medicaid Services, which ever is later, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the June 20, 2003 Rule governing personal care services to clarify covered services, revise the recipient qualifications and define the term "legally responsible relative."

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term

§12903. Covered Services

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

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

7. ambulation; and

8. toileting.

B. - C. ...

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:

§12905. Recipient Qualifications

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

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

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

2. is able, either independently or through a responsible representative, to participate in his/her care and self-direct services provided by the personal care services worker; and

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:

§12909. Standards for Participation

A. - B.3. ...

4. ensure that the direct care staff is qualified to provide personal care services. Assure that all new staff satisfactorily completes an orientation and training program in the first 30 days of employment. A legally responsible relative is prohibited from being the paid personal care worker for a family member. Legally responsible relative is defined as the parent of a minor child, foster parent, curator, tutor, legal guardian or the recipient's spouse;

5. - 10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:

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

David W. Hood
Secretary

0310#003

DECLARATION OF EMERGENCY

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

Pregnant Women Extended Services CDental Services (LAC 50:XV.16101-16107)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XV.16101-16103 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently provides coverage for dental services under the Early and Periodic Screening, Diagnosis and Treatment Program for Medicaid recipients up to age 21. Under the authority of Section 440.210(a)(2) and 442.220(a)(5) of the Code of Federal Regulations, the bureau proposes to expand coverage of certain designated dental services to include Medicaid eligible pregnant women ages 21 through 59 in order to address their periodontal needs that occur during pregnancy. Medicaid coverage of these dental services ends at the conclusion of the pregnancy.

This action is being taken to promote the health and welfare of Medicaid eligible pregnant women and their unborn children by addressing those periodontal needs that may affect the pregnancy. It is anticipated that implementation of this Emergency Rule will increase program expenditures for dental services by approximately \$3,129,560 for state fiscal year 2003-2004. It is also anticipated that implementation of these preventative measures will reduce the number of preterm/low birth weight babies and will decrease expenditures in the hospital program by approximately \$4,269,642. This will result in overall savings to the Medicaid Program of approximately \$1,223,655 for state fiscal year 2003-2004.

Effective for dates of service on and after November 1, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing the coverage of the dental services for pregnant women.

Title 50 PUBLIC HEALTHC MEDICAL ASSISTANCE Part XV. Services for Special Populations Subpart 13. Pregnant Women Extended Services Chapter 161. Dental Services

§16101. Recipient Qualifications

A. In order to qualify for dental services, a Medicaid eligible pregnant woman must be age 21 through 59 and certified for Medicaid as categorically eligible.

B. Pregnant women who are certified for Medicaid as Qualified Medicare Beneficiaries do not qualify for coverage of dental services unless these services are covered by Medicare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§16103. Provider Responsibilities

A. The attending physician for obstetrical care must complete the Referral for Pregnancy-Related Dental Services Form (BHSF Form 9M), including the expected date of delivery. The dental provider must obtain the completed BHSF 9-M prior to the delivery of dental services. This form shall be kept on file at the treating dentist's office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§16105. Covered Services

A. The following dental services are covered for Medicaid eligible pregnant women:

Description
Comprehensive Periodontal Evaluation – New or Established Patient
Intraoral - Periapical First Film
Intraoral - Periapical Each Additional Film
*Intraoral - Occlusal Film
Bitewings, Two Films
*Panoramic Film
Prophylaxis – Adult
* Amalgam, One Surface, Primary or Permanent
*Amalgam, Two Surfaces, Primary or Permanent
*Amalgam, Three Surfaces, Primary or Permanent
*Amalgam, Four or More Surfaces, Permanent
*Resin-based Composite, One Surface, Anterior
*Resin-based Composite, Two Surfaces, Anterior
*Resin-based Composite, Three Surfaces, Anterior
*Resin-based Composite, Four or More Surfaces or Involving Incisal Angle, Anterior
*Resin-based Composite Crown, Anterior
*Prefabricated Stainless Steel Crown, Permanent Tooth
*Prefabricated Resin Crown
*Pin Retention, Per Tooth, In Addition to Restoration
*Periodontal Scaling and Root Planing - Four or More Contiguous Teeth or Bounded Teeth Spaces Per Quadrant
*Full Mouth Debridement to Enable Comprehensive Evaluation and Diagnosis
Extraction, Erupted Tooth or Exposed Root (Elevation and/or Forceps Removal)
*Surgical Removal of Erupted Tooth Requiring Elevation of Mucoperiosteal Flap and Removal of Bone and/or Section of Tooth
*Removal of Impacted Tooth, Soft Tissue
*Removal of Impacted Tooth, Partially Bony
*Prior Authorization Required

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§16107. Reimbursement

A. Reimbursement for these services is a flat fee based on the fee schedule established by the Bureau for the Early and Periodic Screening, Diagnosis and Treatment Program minus the amount which any third party coverage would pay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

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

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

David W. Hood
Secretary

0310#084

DECLARATION OF EMERGENCY

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

Rehabilitation Services CReimbursement Fee Increase

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

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

2001 to establish the reimbursement methodology for rehabilitation services rendered by home health agencies (*Louisiana Register, Volume 27, Number 5*). Reimbursement for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay.

Act 13 of the 2002 Regular Session of the Louisiana Legislature directed the department to increase the reimbursement for physical therapy, occupational therapy, and speech/language and hearing therapy services provided to children under three years of age. In compliance with the Appropriation Bill and as a result of the allocation of additional funds by the Legislature, the bureau increased the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of three, regardless of the type of provider performing the services (*Louisiana Register Volume 28, Number 7*).

This Emergency Rule is being promulgated to continue the provisions contained in the July 6, 2002 Rule. This action is being taken to protect the health and welfare of Medicaid recipients under the age of three and to ensure access to rehabilitation services by encouraging the participation of rehabilitation providers in the Medicaid Program.

Emergency Rule

Effective for dates of services on or after November 2, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the April 20, 1997, June 20, 1997 and May 20, 2001 Rules governing the reimbursement methodology for rehabilitation services provided by outpatient hospitals, rehabilitation centers, home health agencies and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) health services providers to increase the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of 3, regardless of the type of provider performing the services. The new reimbursement rates for rehabilitation services rendered to Medicaid recipients up to the use of three are as follows.

Home Health Agencies and Outpatient Hospitals

Procedure Name	New Rate
Initial Sp/Lang Evaluation	\$ 70.00
Initial Hearing Evaluation	\$ 70.00
Sp/Lan/Hear Therapy 60 Minutes	\$ 56.00
Visit w/Procedure(s) 45 Minutes	\$ 56.00
Visit w/Procedure(s) 60 Minutes	\$ 74.00
Visit w/Procedures 90 Minutes	\$112.00
Procedures and Modalities 60 Minutes	\$ 74.00
Pt and Rehab Evaluation	\$ 75.00
Initial Ot Evaluation	\$ 70.00
Ot 45 Minutes	\$ 45.00
Ot 60 Minutes	\$ 60.00

Rehabilitation Centers

Procedure Name	New Rate
Group Sp Lang Hear Therapy 1/2 Hour	\$ 26.00
Speech Group Therapy add 15 Minutes	\$ 13.00
Group Sp Lang Hear Therapy 1 Hour	\$ 51.00
Initial Sp/Lang Evaluation	\$ 70.00
Initial Hearing Evaluation	\$ 70.00
Sp/Lang/Hear Therapy 30 Minutes	\$ 26.00
Sp/Lang/Hear Therapy 45 Minutes	\$ 39.00
Sp/Lang/Hear Therapy 60 Minutes	\$ 52.00
Visit w/Procedure(s) 30 Minutes	\$ 34.00

Visit w/Procedure(s) 45 Minutes	\$ 51.00
Visit w/Procedure(s) 60 Minutes	\$ 68.00
Visit w/Procedure(s) 75 Minutes	\$ 85.00
Visit w/Procedure(s) 90 Minutes	\$102.00
Ctr Visit One/More Modal/Proc 15 Minutes	\$ 17.00
Procedures and Modalities 60 Minutes	\$ 68.00
Pt and Rehab Evaluation	\$ 75.00
Initial Ot Evaluation	\$ 70.00
Ot 30 Minutes	\$ 26.00
Ot 45 Minutes	\$ 39.00
Ot 60 Minutes	\$ 52.00

EPSDT Health Services

Procedure Name	New Rate
Electrical Stimulation	\$ 17.00
Pt-One Area-Therapeutic-30 Minutes	\$ 17.00
Pt-Neuromuscular Reed-30 Minutes	\$ 17.00
Pt-Gait Training-30 Minutes	\$ 34.00
Orthotic Training	\$ 14.00
Kinetic Act One Area-30 Minutes	\$ 14.00
Physical Performance Test	\$ 14.00
Physical Therapy Evaluation/Re-Evaluation	\$92.00
Occ Therapy Evaluation/Re-Evaluation	\$ 70.00
Speech/Language Evaluation/Re-Evaluation	\$ 70.00
Speech/Language Therapy 30 Minutes	\$ 26.00
Speech/Language Therapy add 15 Minutes	\$ 13.00
Group Sp Lang Hear Therapy 1/2 Hour	\$ 26.00
Speech Group Therapy 20 Minutes	\$ 13.00
Speech Group Therapy Add 15 Minutes	\$ 13.00
Group Sp Lang Hear Therapy 1 Hour	\$ 52.00
Speech Lang Hearing Therapy 20 Minutes	\$ 17.00
Sp/Lan/Hear Therapy 60 Minutes	\$ 52.00
Procedures And Modalities 30 Minutes	\$ 34.00
Procedures And Modalities 45 Minutes	\$ 52.00

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

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

0310#079

DECLARATION OF EMERGENCY

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

State Hospitals
Reimbursement Methodology
Upper Payment Limit

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in July of 1983 which established a reimbursement methodology for inpatient services provided in acute care hospitals (*Louisiana Register, Volume 9, Number 7*). Inpatient hospital services were reimbursed in accordance with the Medicare reimbursement principles with a target rate set based on the cost per discharge for each hospital, except that the base year to be used in determining the target rate was the fiscal year ending on September 30, 1981 through September 29, 1982. In a Rule adopted in October of 1984 (*Louisiana Register, Volume 10, Number 10*), separate per diem limitations were established for neonatal and pediatric intensive care and burn units using the same base period as the target rate per discharge calculation. A Rule was adopted in October 1992, which provided that inpatient hospital services to children under one year of age shall be reimbursed as pass-through costs and shall not be subject to per discharge or per diem limits applied to other inpatient hospital services.

In compliance with House Bill 1 of the 2003 Louisiana Legislative Session, the bureau promulgated an Emergency Rule to utilize the upper payment limit for state government-owned or operated hospitals as set forth in the 42 CFR §447.272(b) and §447.321(b) (*Louisiana Register, Volume 29, Number 7*), 42 CFR §447.272(b) and §447.321(b) states as follows: "General RulesC(1) Upper payment limit refers to a reasonable estimate of the amount that would be paid for the services furnished by the group of facilities under Medicare payment principles in Subchapter B of this Chapter." This Rule is being promulgated to continue the provisions of the July 3, 2003 Emergency Rule. This action is being taken to enhance federal revenues in the Medicaid Program.

Emergency Rule

Effective November 1, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will utilize the upper payment limit for state government-owned or operated hospitals as set forth in the 42 CFR §447.272(b) and §447.321(b). The hospital payment differential for any year shall be the difference between the upper limit of aggregate payments to state government-owned or operated hospitals, as defined in the 42 CFR §447.272(a)(1) and §447.321(a)(1), and the aggregate Medicaid reimbursement paid to these hospitals for the year.

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

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

David W. Hood
Secretary

0310#081

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Corrections Services

Youth Placement Review Process (LAC 22:I.309)

In accordance with the provisions R.S. 49:953, the Louisiana Department of Public Safety and Corrections, Corrections Services (Department), hereby determines that adoption of an Emergency Rule for implementation of the Youth Placement Review Process mandated by Act No. 1225 of the 2003 Regular Session of the Louisiana Legislature is necessary and that for the following reasons failure to adopt the Rule on an emergency basis will result in imminent peril to the public health, safety and welfare.

Act. No. 1225 mandates, by December 31, 2004, that the department no longer operate the Swanson Correctional Center for Youth-Madison Parish Unit (SCCY-M) as a secure care facility for juveniles. The Act also mandates that the department review every custody case under the jurisdiction of the department, including those coming into the system in the future, and determine if the juveniles in the system are placed in the least restrictive setting most appropriate to their needs, consistent with the circumstances of the case, while insuring the protection of the best interest of society and safety of the public within the state. department Regulation No. B-02-012, the Rule in question, is the procedure for conducting the review and effectuating the transition from secure to non-secure care if a youth meets the requirements of the screening process. It is estimated that the department will have to reduce the secure care custody in all other institutions by a total of at least 150 in order to accommodate the closing of SCCY-M, and to meet the required overall reduction in numbers of youths held in secure care at each institution. Act No. 1225 requires the department to adopt rules to initiate the review process and begin the transition of youths from secure care to non-secure care and to reduce the population. In conjunction with the Youth Placement Review Process is the need to evaluate department programs system-wide to identify possible sources of revenue to adequately fund the non-secure care contracts impacted by the transitioning out of secure care of the youths identified.

In order for the department to meet the statutorily imposed deadline to transition juvenile offenders and to effectuate the closure of SCCY-M in a timely manner, we must aggressively de-populate our secure juvenile facilities. The Administrative Procedures Act, R.S. 49:950 et seq., requires, unless a Rule is promulgated as an emergency rule, a period of approximately one hundred days between the filing of the initial notice of intent and the effective date of the Rule. Unless the department is able to proceed immediately, it is uncertain that the goal of moving all the youths at SCCY-M by the legislative deadline can be achieved. If that situation were to occur, there is a serious public safety risk associated with putting these high-risk youths in less than secure care custody. It would be extremely difficult to accommodate them at the other juvenile institutions given the population restrictions that would be in place at that time. In addition, the juvenile population is not a static situation. The department does not have any control over the sentencing

that will occur from this date forward with regard to juveniles. It is possible that there will be an upturn in secure care dispositions that would exacerbate the task of reviewing the population for non-secure care alternatives. The Department will have to insure that the funding for these transitions is done in a manner that will not jeopardize any existing programs essential to protecting the public health, safety or welfare. It is estimated that the cost will be approximately \$2.4 million in the first year, which must be taken from the current general fund appropriation. This is an imminent threat to the stability of the department, which impacts the public health, safety and welfare.

For the foregoing reasons, the Louisiana Department of Public Safety and Corrections has determined that the adoption of an emergency rule for implementation of the Youth Placement Review Process, department Regulation No.B-02-012, is necessary and hereby provides notice of its declaration of emergency. department Regulation No.B-02-012 was signed by the Secretary of the Department of Public Safety and Corrections and effective on September 15, 2003, in accordance with R.S. 49:953. This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedures Act or until adoption of the final Rule, whichever occurs first.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

§309. Youth Placement Review Process

A. Purpose. To establish the secretary's policy regarding periodic placement reviews of all youth in the custody of the department in order to determine whether the youth is placed in a setting most appropriate to their needs consistent with the interests of public safety.

B. Applicability. Assistant Secretary of the Office of Youth Development, wardens of juvenile facilities, Probation and Parole Director/Juvenile, and Probation and Parole District Managers.

C. Policy. Notwithstanding the provisions of any other regulation to the contrary, it is the secretary's policy, in accordance with R.S. 15:902.3, to authorize a periodic placement review process whereby all youth in the department's custody are screened in a multi-disciplinary placement review process. Following an initial review of all custody cases, the review for secure care shall occur no less than quarterly and in conjunction with custody reclassifications. For non-secure programs, the review shall occur in conjunction with semi-annual placement reviews or upon successful completion of the placement program. The review will determine whether the youth is placed in the setting most appropriate to their needs consistent with public safety interests, based upon a formal criteria established through department policy.

D. Definitions

Adjudication After the presentation of evidence, or the entering of a plea, the entering of a judgment by the court which indicates whether the facts as alleged in the petition forming the basis of the action have been proven, i.e. whether the family is in need of services or the child committed the delinquent act.

Aftercare the control, supervision and care exercised over a youth upon exit from a secure facility or non-secure residential program into the community.

Fourteen Legal Days fourteen calendar days except when the 14th day ends on a weekend or legal holiday. When this occurs, the period extends to the close-of-business on the next day that is not a weekend or legal holiday. The 14-day timeframe begins the day after the filing of a legal document with the court.

Louisiana Children's Code Article 897.1 requires that juveniles who are adjudicated delinquent for any of six most serious violent crimes (first degree murder, second degree murder, aggravated rape, aggravated kidnapping, armed robbery, and treason) must remain in a secure environment until the disposition ends. Except for armed robbery, dispositions rendered under provisions of this Article must extend until the 21st birthday.

Non-Secure Non-Residential Program provides rehabilitative services to a youth who resides at home. The youth may receive the services in his home or at a central location to which he reports daily. Youth served may be in custody or on probation or parole.

Non-Secure Residential Program provides housing, supervision and rehabilitative care for youth in the custody of the department primarily between the ages of 12-17. These facilities are usually characterized by a lack of physical security such as perimeter fences, security locks and controlled access to the facility.

Secure Care facilities for adjudicated delinquents providing treatment and education characterized by facility design including such things as perimeter fences, security locks, supervision, and staff control that restricts on a 24-hour basis the ability of residents to enter or leave the premises.

Youth CARE system wide positive behavior management program based upon principals of adolescent growth and development.

E. Placement review process of non-secure care youth

1. Youth in non-secure residential programs will be reviewed to determine the appropriateness of transition to a less restrictive setting. Screening criteria to be used in identifying youth to be reviewed are as follows:

- a. in a residential program five months or more; or
- b. FINS adjudication regardless of length of time in a residential program.

2. A review team in each Probation and Parole district office will review cases which meet the above criteria. The review team will consist of, but not be limited to, the following individuals:

- a. district manager;
- b. residential facility representative;
- c. placement officer from district of origin;
- d. treatment provider as necessary;
- e. unbiased individual;
- f. youth; and
- g. youth's parent/guardian.

3. The review will consist of discussion and evaluation of the youth's progress and needs in the areas of:

- a. educational/vocational needs/progress;
- b. medical concerns;
- c. mental health concerns;

d. general treatment needs/progress in the areas of substance abuse, anger management, cognitive behavior, etc.;

- e. behavioral concerns;
- f. home environment;
- g. review of community risk assessment;
- h. aftercare plans;
- i. special needs concerns (i.e. SMI, low cognitive abilities, special education disabilities, psychotropic medication needs);
- j. availability of services to address needs, especially special needs youth;
- k. most recent case staffing findings; and
- l. availability of services in the community.

4. A determination of the appropriate course of action regarding the youth's placement will be made by the participants. Once a determination is reached, the plan will be developed. Following the review, if the recommendation is to transition the youth into a less restrictive setting, the DYS district office will submit a motion to modify disposition to the appropriate attorney for review and signing. The motion will then be returned to the DYS for filing with the clerk of court and submission to the court. The motion shall include the following:

- a. recommendation;
- b. relevant documentation supporting the recommendation, including, but not limited to, the risk and needs assessments; and
- c. aftercare plan.

5. The court will have 14 legal days to do one of the following:

- a. make no response during the 14 day period, in which case the District Office shall proceed with the recommendation;
- b. reject the recommendation and deny the motion;
- c. notify the department in writing that there is no objection and accept the motion as orders of the court; or
- d. schedule a future hearing and issue an order rejecting, modifying, or accepting the recommendation after the hearing.

6. All motions will be delivered to the clerk of court and a copy of the stamped motion will be obtained for Probation and Parole records. At the same time that the motion is submitted to the court, the appropriate sheriff's office and any registered crime victim, if applicable, shall also be notified.

7. Each Probation and Parole district office will maintain a document listing all youth who met the criteria for review for transition to a less restrictive setting. This document will include the results of the review and the rationale for the recommendation.

F. Placement Review Process of Secure Care Youth

1. Youth currently in secure care will be reviewed to determine the appropriateness of a transfer to a less restrictive setting. The placement criteria process will be conducted at each facility through a multi-disciplinary team activity that will take into consideration multiple aspects of the youth's classification profile to determine if the youth is placed in the most appropriate setting.

2. The team will be composed of the following individuals:

- a. deputy warden, chairperson;

- b. education;
- c. dorm security;
- d. program manager;
- e. youth's case manager;
- f. LSUHSC staff (if needed);
- g. treatment provider (if needed);
- h. DYS representative (via phone conference);
- i. youth;
- j. youth's parent/guardian(s) (in person, via phone conference, and/or prior interview).

3. The multi-disciplinary review process will include a thorough review and assessment of the youth's needs, strengths and weaknesses. At a minimum, the multi-disciplinary team will consider the following prior to recommending placement:

- a. educational/vocational needs/progress;
- b. medical concerns;
- c. mental health concerns;
- d. general treatment needs/progress in the areas of substance abuse, anger management, cognitive behavior, etc.;
- e. behavioral concerns;
- f. level of participation in YouthCARE;
- g. home environment;
- h. custody level (both prior and present);
- i. review of community risk assessment;
- j. proposed aftercare/release plans;
- k. special needs concerns (i.e. SMI, low cognitive abilities, special education disabilities, psychotropic medication needs);
- l. availability of services to address needs, especially special needs youth; and
- m. most recent secure custody screening document (must have been done within the last year).

4. A schedule of the multi-disciplinary review activities will be issued by the deputy warden and disseminated to all department heads and team members. In an effort to better promote parental/guardian input, the case manager will make telephone contact and/or formal written correspondence with the youth's parent/guardian about the scheduled date and approximate time of the multi-disciplinary activity. If any member of the multi-disciplinary team is not represented at the staffing, written comments or reports shall be used in the staffing to ensure education, medical, mental health, recreation and security activities are considered.

5. A determination of the appropriate course of action regarding the youth's placement will be made by the participants. Once a determination is reached, the plan will be developed. Following the review, if the recommendation is to transition the youth into a less restrictive setting, the DYS District Office will submit a motion to modify disposition to the appropriate attorney for review and signing. The motion will then be returned to the DYS office for filing with the clerk of court and submission to the court. The motion shall include the following:

- a. recommendation;
 - b. relevant documentation supporting the recommendation, including, but not limited to, the risk and needs assessments; and
 - c. aftercare plan.
6. The court will have 14 legal days to do one of the following:
- a. make no response during the 14 day period, in which case the district office shall proceed with the recommendation;
 - b. reject the recommendation and deny the motion;
 - c. notify the department in writing that there is no objection and accept the motion as orders of the court; or
 - d. schedule a future hearing and issue an order rejecting, modifying, or accepting the recommendation after the hearing.

7. All motions will be delivered to the clerk of court and a copy of the stamped motion will be obtained for Probation and Parole records. At the same time that the motion is submitted to the court, the appropriate sheriff's office and any registered crime victim, if applicable, shall also be notified.

8. Each Probation and Parole district office will maintain a document listing all youth who met the criteria for review for transition to a less restrictive setting. This document will include results of the review and the rationale for the recommendation.

G. Quality assurance. A copy of all screening forms, as well as multi-disciplinary team review forms, are to be maintained for a period of three years as a component of system quality assurance.

H. Procedures. Refer to Attachment A for Risk Screening Document and Attachment B for Secure Screening/Data Collection Form.

I. The effective date of this regulation is September 15, 2003.

Office of Youth Development
Risk Screening Document

Offender:	Date of Current Rating:	JIRMS#		
Most Serious Present Adj. Offense:		Date of Disposition:		
1.	<u>Age at First Adjudication</u>	<u>Score</u>		
	Age 12 or younger	(10)		
	Age 13	(07)		
	Age 14	(05)		
	Age 15 or older	(02)		
2.	<u>Severity of Present Adjudicated Offense</u>			
	High Severity: L. R. S. 14.2, and Ch. C. Art 897.1	(10)		
	Moderate Severity: All other felonies	(06)		
	Low Severity: All misdemeanors and FINS	(03)		
3.	<u>Most Serious Prior Adjudicated Offense</u>			
	High Severity (see above)	(05)		
	Moderate Severity (see above)	(03)		
	Low Severity (see above)	(01)		
	No Prior Adjudicated Offense record	(00)		
4.	<u>Number of Prior Adjudications</u>			
	Four or more Felony adjudications	(10)		
	Three Felony or four or more Misdemeanor offenses	(05)		
	Two Felony grade offenses or three Misdemeanor offenses	(03)		
	One Felony or two Misdemeanors/FINS adjudications	(01)		
	One prior misdemeanor or one Prior FINS or No Prior Adjudications	(00)		
5.	<u>History of Probation or Parole Supervision or DPS&C Custody</u>			
	Current	(02)		
	Within past 12 months	(01)		
	No Prior History of Supervision or Custody	(00)		
6.	<u>Number of Out-of-Home Placements</u>			
	Non-Secure	Secure		
	Three or more	or	One or more	(02)
	One or Two			(01)
	No Prior Out-of-Home Placement(s)			(00)
7.	<u>Prior Escapes or Runaways</u>			
	From a Secure facility (more than once)	(03)		
	From a Secure facility (1) or Non-Secure (2 or more times)	(02)		
	From a Non-Secure facility once (1)	(01)		
	No Prior Escapes or Runaways	(00)		
	Total Score	_____		

Supervision Level based on above score:

Level	Assessment
Red	12 and above
Yellow	11 and Lower

Administrative/Case Review Report

Identifying Information

Youth's Name:
Youth's Date of Birth:
Petition Number(s) for CNF or CND:

Placing District:
Placing District PPO:

Review

Date of Initial Placement:
Date of Initial Plan:

Date of Last Review: N/A
Date of Current Review:

Facility Information

Name of Facility:
Address:

Phone Number:

Reason Youth Entered Care:

Placement History:

Judicial Determination

Was court recommendation regarding placement followed? Yes No

If no, why not?

Was Judicial Determination of Reasonable Efforts documented? Yes No

If no, why not?

Criteria For Placement

Did the Psychological Evaluation recommend Non-secure Placement? Yes No

If no, explain:

Change In Placement

Has there been a change in placement since the last review? Yes No

If yes: Date of Current Placement:

Date Written Notification sent to Court:

Explain Reason for Change in Youth's Placement:

Appropriateness of Placement

Discuss appropriateness of services provided at this facility, which match this youth's specific needs, as identified in the Psychological Evaluation or Individual Service Plan:

Is Facility a Safe Setting in the best interests and needs of the youth? Yes No

Is the Facility Liscensed by DSS, Bureau of Liscensing? Yes No

If no, explain:

Is the Facility monitored by the Office of Youth Development as per Department Regulation C-05-003?

Yes No

Date of last monitoring:

Close Proximity

Is this the closest facility available, which best meets the needs of this youth? Yes No

If no, explain:

Least Restrictive

Is this the least restrictive environment available which best meets the youth's specific needs?

Yes No

If no, explain:

Identify Previous Need Areas

- | | |
|----------------------------------------------|----------------------------------------------------|
| <input type="checkbox"/> Family | <input type="checkbox"/> Peer Relationships |
| <input type="checkbox"/> Drug Use | <input type="checkbox"/> Employment |
| <input type="checkbox"/> Alcohol Use | <input type="checkbox"/> Sexual History |
| <input type="checkbox"/> Emotional Stability | <input type="checkbox"/> Physical Health |
| <input type="checkbox"/> School/Education | <input type="checkbox"/> Independent Living Skills |

Current Need Areas

Family

Youth's Current Status:
Discussion of Progress Towards Meeting Goals:
Measurement of Progress:
Explain:

Drug Use

Youth's Current Status:
Discussion of Progress Towards Meeting Goals:
Measurement of Progress:
Explain:

Alcohol Use

Youth's Current Status:
Discussion of Progress Towards Meeting Goals:
Measurement of Progress:
Explain:

Emotional Stability

Youth's Mental Health Diagnosis:
Youth's Current Status:
Discussion of Youth's Psychotropic Medications:
Discussion of Progress Towards Meeting Goals:
Measurement of Progress:
Explain:

School/Education

Name of School: Type:

Is the current IEP (Individual Education Plan) in the file? Yes No

Youth's Current Status - Performance/Grades:

Youth's Current Status - Attendance:

Youth's Current Status - Behavior/Discipline:

Discussion of Progress Towards Meeting Goals:

Measurement of Progress:

Explain:

Peer Relationships

Youth's Current Status:

Discussion of Progress Towards Meeting Goals:

Measurement of Progress:

Explain:

Employment

Youth's Current Status:

Discussion of Progress Towards Meeting Goals:

Measurement of Progress:

Explain:

Sexual History

Youth's Current Status:

Discussion of Progress Towards Meeting Goals:

Measurement of Progress:

Explain:

Physical Health

Has there been a change in Medical/Dental Providers since last Kid Med form? Yes No

Youth's Current Status:

Discussion of Youth's Non-Psychotropic Medications and Immunizations in last six months:

Is the current Immunization Record in the file? Yes No

Discussion of Progress Towards Meeting Goals:

Measurement of Progress:

Independent Living Skills (if youth is/will be 16 before next review)

Youth's Current Status:

Briefly Describe the Independent Living Services Provided by the Facility:
Discussion of Progress Towards Meeting Goals:
Measurement of Progress:

Measurement of Progress

Number of Need Areas Completed:
Number of New Need Areas:
Number of Remaining Need Areas:

Permanency Plan

Hearing Scheduled: at
Identify the Permanent Plan:
Return to Parent/Guardian:
Place with a relative:
Emancipation/Independent Living: Explain why:
Date Staffed with OCS for Termination of Parental Rights Prior to 11 Month Review:
If not, explain:

Visitation Plan

Is Visitation between the youth and Permanent Plan appropriate? Yes No

If No, why?

Has the facility Visitation Plan been discussed with the Permanent Plan? Yes No

If No, why?

Does the youth participate in Home Passes with the Permanent Plan? Yes No

Discussion of the Home Passes:
Discussion of Family Visits at Facility:

Panel's Recommendation regarding Continued Need for Placement

The Compelling Reason why this youth continues to require placement:
Projected Release Date:

Comments

Youth:

Family:

Facility:

PPO:

Other:

Signatures are attached.

	Signatures	Notified	Attended	Date
Youth		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Parent/Guardian		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Parent/Guardian		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Facility Representative		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
PPO		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Supervisor/DM		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Program Specialist		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Others:		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Administrative Review Panelist:		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	

If any party failed to be notified of review, explain:
If any party has not, or refuses to sign, explain:

SECURE SCREENING/DATA COLLECTION FORM

YOUTH: _____ **JIRMS:** _____ **DORM:** _____

HISTORY: Prior and Present Custody Levels

Minimum Medium Maximum Date: _____

Minimum Medium Maximum Date: _____

Minimum Medium Maximum Date: _____

Secure Custody Screening Document

Total Score: _____ Date: _____

OFFENSE: _____ **FTD:** _____

IS YOUTH 897.1? Yes No

DATE OF COMMITMENT: _____ **DATE OF LAST QUARTERLY STAFFING:** _____

NUMBER OF SCHEDULE B VIOLATION FOUND TO BE VALID _____

PRIOR MODIFICATIONS: Yes No

*If yes, provide narrative (include date, specifics about modification, response by court)
Attach a copy*

IS YOUTH MAKING ADEQUATE PROGRESS IN MEETING GOALS OF IIP? Yes No

Explanation of Response: _____

ONE ON ONE INTERVIEW WITH YOUTH: **DATE:** _____

SUMMARY OF MEETING : _____

PHONE CONTACT WITH PARENT: Yes No

PHONE NUMBER _____ (IF NO PHONE, WAS NOTIFICATION OF STAFFING SENT TO PARENT/GUARDIAN?)

PARENTAL CONCERNS: _____

Case Manager *Date*

Note: *If the youth is an 897.1 youth, has less than 45 days to his/her full term date, had 10 or more validated schedule B violations, or has been in secure care for less than 90 days **do not complete** the CRM form. For all other youth, the CRM form is to be completed prior to the multi-disciplinary staffing.*

AUTHORITY NOTE: Promulgated in accordance with Act 1225 of the 2003 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, Office of the Secretary, LR 30:

Richard L. Stalder
Secretary

0310#001

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

Withholding by Professional Athletic Teams (LAC 61:I.1520)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allows the Department of Revenue to use emergency procedures to establish Rules, R.S. 47:1511, which allows the Department to make reasonable rules and regulations, and R.S. 39:100.1(D) that authorized the Secretary of Revenue to prescribe regulations necessary to carry out the purposes of R.S. 39:100.1, the Secretary of Revenue hereby finds that imminent peril to the public welfare exists and accordingly adopts the following Emergency Rule. This Emergency Rule shall be effective October 1, 2003, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final Rule, whichever comes first.

This Emergency Rule is necessary to implement recent legislative changes to the Sports Facility Assistance Fund and to allow the Department of Revenue to effectively and efficiently attribute the income tax collected from nonresident professional athletes to the Sports Facility Assistance Fund. A delay in promulgating this Rule would have an adverse impact on the facilities that receive appropriations through the Sports Facilities Assistance Fund.

Act 1203 of the 2001 Regular Session enacted R.S. 39:100.1, which created a fund in the state treasury called the Sports Facility Assistance Fund (the Fund). Each year, the treasurer must pay into the Fund an amount equal to the income tax collected by the state from nonresident professional athletes and professional sports franchises on income earned in Louisiana. The monies in the fund are appropriated dollar-for-dollar to the owners of the facilities at which the money that generated the income tax was earned. The purpose of this Emergency Rule is to enable the Department of Revenue to collect income tax from nonresident professional athletes and to accurately attribute the income tax collected to the fund.

Act 119 of the 2003 Regular Session enacted R.S. 39:100.1(D) that authorized the Secretary of Revenue to prescribe regulations necessary to carry out the purposes of R.S. 39:100.1. This Emergency Rule will require periodic withholding for professional athletic teams domiciled outside Louisiana on their nonresident team members. It will also clarify that these teams are required to follow current withholding provisions for their team members who are residents of Louisiana.

Title 61

REVENUE AND TAXATION

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

Chapter 15. Income: Withholding Tax.

§ 1520. Withholding by Professional Athletic Teams

A. Definitions

Nonresident Any person not domiciled, residing in, or having a permanent place of abode in Louisiana.

Professional Athletic Team A member team of a professional sports association or league.

Team Member shall include those employees of a professional athletic team who are active players, players on the disabled list, and any other persons required to travel and who travels with and perform services on behalf of a professional athletic team on a regular basis. This definition includes, but is not limited to, coaches, managers, and trainers.

B. Withholding Requirement for Nonresident Team Members

1. Professional Athletic Teams not Domiciled in Louisiana

a. Any professional athletic team that is not domiciled in Louisiana and that pays compensation to a nonresident individual for services rendered to the team within Louisiana shall be deemed to be an employer making payment of wages and shall be required to withhold Louisiana individual income tax from that portion of the compensation for services rendered to the team attributable to "duty days" spent in Louisiana, as defined in LAC 61:I.1304(I), for each game played in Louisiana.

b. This section does not alter the professional athletic team' withholding requirements for team members who are residents of Louisiana. The withholding for these team members must be as provided for in R.S. 47:111.

2. Professional athletic teams with a Louisiana domicile. Professional athletic teams that are domiciled in Louisiana must withhold for all team members as provided for in R.S. 47:111.

3. This section does not alter any professional athletic team member's requirement to file the income tax schedule required under LAC 61:I.1305.

C. Rate of Withholding. The withholding tax rate under this section shall be 4.2 percent of the compensation attributable to "duty days" spent in Louisiana.

D. Due Date of Withholding Return and Payment. A withholding return and payment must be submitted for each game played in Louisiana. The withholding return and payment must be submitted on or before the last day of the month following the month in which the game was played.

E. Account Numbers

1. Each professional athletic team not domiciled in Louisiana will be issued an identification number by the Department.

2. The professional athletic team filing the withholding return must be clearly identified by name, address and Louisiana revenue account identification number. The team's federal employer identification number will not be accepted as a substitute. The withholding return will not be considered complete unless the team's Louisiana revenue account identification number is on the return.

F. Annual Reconciliation Schedule

1. All professional athletic teams that pay compensation to a nonresident individual for services rendered to the team within Louisiana must submit an annual withholding reconciliation schedule that includes a list of all team members who received Louisiana source income during the year. The list must include the following information:

- a. the name, social security number, and permanent physical address of all team members regardless of residency, and
- b. for each nonresident team member:
 - i. the total number of duty days spent with the team during the taxable year;
 - ii. the number of duty days spent in Louisiana;
 - iii. the total amount of compensation for services rendered to the team;
 - iv. the amount of compensation for services rendered to the team in Louisiana; and
 - v. the total amount deducted and withheld under this Section.

2. The annual reconciliation schedule is due on or before the first business day following February 27 of each year for the preceding calendar year. The secretary may grant a reasonable extension of time, not exceeding thirty days for the filing of the annual reconciliation schedule. The annual reconciliation schedule is not considered to be remitted until it is complete.

3. The permanent address listed on the annual reconciliation schedule will be presumed to be the residence of the team member for purposes of administering the Sports Facility Assistance Fund.

G Penalty for Failure to Timely Remit Schedules and Payments

1. The following penalties will be imposed for failure to timely remit these returns, schedules, and payments.

a. In the case of failure to timely remit any return or schedule required by this section, the penalty shall be \$500 for the first such failure, \$1,000 for the second such failure within the 3-year period beginning on the due date of the first delinquent return or schedule, and \$2,500 for each subsequent failure within the 3-year period beginning on the due date of the first delinquent return or schedule.

b. In the case of failure to timely remit any payment required by this section, the penalty shall be 5 percent of the total payment due if the delinquency is for not more than 30 days, with an additional five percent for each additional 30 days or fraction thereof during which the delinquency continues, not to exceed 50 percent of the amount due.

H. Exception to Withholding Requirement under this Section

1. The secretary may grant an exception to withholding requirements under this section to any professional athletic team not domiciled in Louisiana that agrees in writing to file team composite returns and remit composite payments as provided in LAC 61:I.1304(J).

2. The composite return and composite payment will be considered to be a return and payment required by the secretary to administer the provisions of the Sports Facility Assistance Fund.

3. This agreement will be binding on the secretary and the professional athletic team until it is revoked. Either party may revoke this agreement.

AUTHORITY NOTE: Adopted in accordance with R.S. 39:100.1, R.S. 47:164(D), R.S. 47:295, R.S. 47:1511, and R.S. 47:1602.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 30:

Cynthia Bridges
Secretary

0310#048

DECLARATION OF EMERGENCY

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

**Food Stamp Program Time Limitations for Certain Aliens
(LAC 67:III.1932 and 1995)**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III, Subpart 3, effective October 1, 2003. This Rule shall remain in effect for a period of 120 days.

Pursuant to Public Law 107-171, the Food Stamp Reauthorization Act of 2002, the agency is amending §§1932 and 1995 to comply with mandates issued by the United States Department of Agriculture, Food and Nutrition Service. P.L. 107-171, also known as the 2002 Farm Bill, mandates restoration of food stamp eligibility to qualified aliens under the age of 18 regardless of date of entry into the United States and eliminates the deeming requirements for any alien under the age of 18 that count the income and resources of alien sponsors when determining Food Stamp eligibility and benefit amounts.

Emergency action in this matter is necessary as failure to promulgate the Rule in a timely manner could result in the imposition of sanctions or penalties by the USDA, Food and Nutrition Service, the governing authority of the Food Stamp Program in Louisiana.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter D. Citizenship and Alien Status

§1932. Time Limitations for Certain Aliens

A. - A.5. ...

B. The following qualified aliens are eligible for an unlimited period of time:

1. - 5. ...

6. effective October 1, 2003, individuals who are lawfully residing in the United States and are under 18 years of age;

7. ...

AUTHORITY NOTE: Promulgated in accordance with P. L. 104-193, P. L. 105-33, P. L. 105-185, and P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:711(April 1999), LR 29:606 (April 2003), LR 30:

Subchapter J. Determining Household Eligibility and Benefit Levels

§1995. Sponsored Aliens

A. The full amount of income and resources of an alien's sponsor and the sponsor's spouse are counted in determining the eligibility and allotment level of a sponsored alien until the alien becomes a citizen or has worked 40 qualifying quarters of Social Security coverage. These provisions do not apply to battered aliens, their children, or the alien parent of a battered child, or effective October 1, 2003, any alien under 18 years of age.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.11, P.L. 104-193, P. L. 104-208, P. L. 105-33, and P. L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), LR 24:355 (February 1998), LR 30:

Gwendolyn P. Hamilton
Secretary

0310#009

DECLARATION OF EMERGENCY

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

Strategies to Empower People (STEP) Program
(LAC 67:III.Chapters 12, 19, 51, 53, and 57)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt LAC 67:III, Subpart 16, Chapter 57, Strategies to Empower People (STEP) Program and to amend Subpart 2, Chapter 12, Family Independence Temporary Assistance Program (FITAP), Subpart 3, Chapter 19, Food Stamps, Subpart 12, Chapter 51, Child Care Assistance Program (CCAP), and Subpart 13, Chapter 53, Kinship Care Subsidy Program (KCSP) effective October 1, 2003. This Rule shall remain in effect for a period of 120 days.

In order to assist Louisiana families in becoming economically self-reliant so that their dependence on government benefits is minimized, the department will implement the STEP Program so that all work-eligible cash assistance recipients are actively engaged in activities designed to enable their transition from cash assistance to self-reliance. It is further intended that cash assistance recipients demonstrate active and diligent personal responsibility in achieving self-reliance through employment and increased workplace literacy.

The STEP program will replace the Family Independence Work Program (FIND Work). As a result of this implementation, changes are necessary to the FITAP, Food Stamp, CCAP and KCSP programs so that language concerning FIND Work can be replaced with language reflecting the STEP program as well as other changes necessitated by the implementation of STEP. The FIND Work Program will be repealed once the STEP Program is fully implemented and FIND Work participants have been transitioned into the STEP Program.

The authorization for emergency action is contained in

Act 14 of the 2003 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 2. Family Independence Temporary Assistance Program

Chapter 12. Application, Eligibility, and Furnishing Assistance

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

§1209. Notices of Adverse Actions

A. A notice of adverse action shall be sent at least 13 days prior to taking action to reduce or terminate benefits. In some circumstances advance notice is not required. A concurrent notice shall be sent to the client at the time of action in the following situations:

- 1 - 9. ...
- 10. Repealed.
- 11. - 17. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B. and R.S. 46:237; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), amended LR 26:349 (February 2000), LR 29:2565 (December 2002), LR 30:

§1213. Domestic Violence

A. The secretary shall waive, for as long as necessary, pursuant to a determination of good cause, any public assistance program requirement that will create obstacles for a victim of domestic violence to escape a domestic violence situation, including but not limited to, time limits on receipt of assistance; work, training, or educational requirements; limitations on TANF assistance to noncitizens; child support or paternity establishment cooperation requirements; residency requirements; and any other program requirements which will create obstacles for such victim to escape violence or penalize that victim for past, present, and potential for abuse. However, a victim of domestic violence shall develop a plan that specifies the necessary actions, goals, and services that may enable the victim to become free of a domestic violence situation. This plan shall be made part of the participant's Family Success Agreement.

- B. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), LR 30:

Subchapter B. Conditions of Eligibility

§1221. Age Limit

A. A dependent child must be:

- 1. under 18 years of age; or
- 2. 18 years of age, enrolled in a secondary school or its equivalent, and expected to graduate on or before his nineteenth birthday.

- B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.2; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2448 (December 1999), LR 30:

§1231. Immunization

A. Failure to follow the schedule of immunizations as promulgated by the Louisiana Office of Public Health for any child under 18 years of age, without good cause, shall result in case closure.

1. The appropriate STEP sanction shall be imposed on a work-eligible family.

2. The case of a family that is not work-eligible shall be closed for at least one month and until the child is in compliance.

B. No person is required to comply with this provision if that person or his/her parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or his/her parent or guardian objects to the procedure on religious grounds.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.4; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999), LR 30:

§1237. School Attendance

A. Work-eligible FITAP recipients must meet the school attendance requirements outlined in LAC 67:III.Chapter 57.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.3; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2452 (December 1999), LR 30:

§1239. Assignment of Support Rights and Cooperation with Support Enforcement Services

A. - B.2.d. ...

3. Failure to cooperate in establishing paternity or obtaining child support will result in case closure. The appropriate STEP sanction shall be imposed on a work-eligible family. The case of a family that is not work-eligible shall be closed for at least one month and until the family cooperates.

B.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2452 (December 1999), LR:30:

§1241. Sanctions for Refusal to Accept a Job

A. Refusal to accept a job will result in the appropriate sanction being imposed on a work-eligible family.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2452 (December 1999), amended LR 30:

§1243. Work Requirements

A. Recipients must meet the work requirements outlined in LAC 67:III.Chapter 57.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.7., 46:231.8 and 46:231.9; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR 30:

§1245. Parenting Skills Education

A. Recipients must meet the requirements for parenting skills education as outlined in LAC 67:III.Chapter 57.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.5; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR:30

§1247. Time Limits

A. The Office of Family Support shall deny FITAP cash benefits to families if the parent has received FITAP for at least 24 months, whether consecutive or not, during the prior 60-month period. Only months of FITAP receipt after the January 1, 1997 date of implementation count toward the 24-month limit.

B. The following situations represent exemptions from the 24-month time limit:

1. the household contains a permanently incapacitated or disabled individual; or

2. for months after June 1999, the household contains a recipient who received the earned income disregard.

C. An extension of the 24-month time limit may be granted in the following situations.

1. An individual has been actively seeking employment by engaging in appropriate job-seeking activities and required work activities as specified in the participant's Family Success Agreement (FSA) but is unable to find employment;

2. Factors relating to job availability are unfavorable.

3. An individual loses his job as a result of factors not related to his job performance.

4. An extension of benefits of up to one year will enable an individual to complete employment-related education or training, including workplace literacy, and is required as part of an FSA, where an individual has received an assessment that indicates such activities will likely result in long-term success in the workforce.

5. Other hardships have occurred which affect the individual's ability to obtain employment.

D. Eligibility for cash assistance under a program funded by Part IV of the Social Security Act is limited to a lifetime 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 hardships exists (in households with two caretaker relatives, both caretaker relatives must meet at least one of these criteria):

1. an individual has been actively seeking employment by engaging in appropriate job-seeking activities and required work activities as specified in the participant's Family Success Agreement (FSA) but is unable to find employment;

2. factors relating to job availability are unfavorable;

3. an individual loses his job as a result of factors not related to his job performance;

4. an extension of benefits of up to one year will enable an individual to complete employment-related education or training, including workplace literacy, and is

required as part of an FSA, where an individual has received an assessment that indicates such activities will likely result in long-term success in the workforce;

5. other hardships have occurred which affect the individual's ability to obtain employment.

E. Any month for which such assistance was provided will be disregarded from the 24- and 60-month time limits 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. and R.S. 46:460.5(A)(3); Act 58, 2003 Reg. Session.

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), LR 30:

§1249. Drug Screening, Testing, Education and Rehabilitation Program

A. - D. ...

E. Failure to Cooperate. Failure or refusal of a recipient to participate in drug screening, testing, or participation in the education and rehabilitation program, without good cause, will result in case closure.

1. The appropriate STEP sanction shall be imposed on a work-eligible family.
2. The case of a family that is not work-eligible shall remain closed for at least one month and until the client has complied.

F. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR:30

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter I. Income and Deductions

§1983. Income Deductions and Resource Limits

A. - A.2. ...

3. The maximum dependent care deduction is \$200 per month for each child under two years of age and \$175 for each other dependent.

a. A child care expense that is paid for or reimbursed by the STEP Program or the Child Care Assistance Program is not deductible except for that portion of the cost which exceeds the payment or reimbursement.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9 (d)(2) and (d)(6), P.L. 104-193, P.L. 106-387 and

P.L. 107-171; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:285 (May 1986), amended LR 12:423 (July 1986), LR 12:824 (December 1986), LR 13:181 (March 1987), LR 14:684 (October 1988), LR 15:14 (January 1989). Amended by the Department of Social Services, Office of Family Support, LR 19:303 (March 1993), LR 19:905 (July 1993), LR 20:780 (July 1994), LR 20:990 (September 1994), LR 21:186 (February 1995), LR 23:82 (January 1997), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 29:607 (April 2003), LR 30:

§1987. Categorical Eligibility for Certain Recipients

A. Households Considered Categorically Eligible

Households in which a member is a recipient of benefits from the FITAP, STEP, and/or Kinship Care Subsidy Programs, and households in which all members are recipients of SSI, shall be considered categorically eligible for food stamps.

A.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274; F.R. 56:63612-63613, P.L. 104-193, 7 CFR 273.2(j)(2)(xi); Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended LR 12:755 (November 1986), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 24:1783 (September 1998), LR 26:349 (February 2000), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 30:

Subpart 12. Child Care Assistance Program

Chapter 51. Child Care Assistance

§5103. Conditions of Eligibility

A. Family Independence Temporary Assistance Program (FITAP) recipients who are satisfactorily participating in the Strategies to Empower People (STEP) Program, as determined by the case worker, are categorically eligible. The program will pay 100 percent of the FITAP/STEP participant's child care costs, up to the maximum amounts listed in 5109.B. The following eligibility criteria must be met:

A.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444(December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 30:

§5105. Funding Availability

A. Louisiana's share of the national total of available funds for child care programs is based on factors determined by federal law and regulation. Funds are appropriated by Congress and allocated on an annual basis so that a limited amount of federal funding is available each year through the Child Care and Development Fund (CCDF). Therefore, a determination will be made of the number of children, or "slots," that the CCDF can pay for based on available funding.

1. The children of STEP participants shall be categorically eligible for child care benefits. The children of STEP participants whose FITAP eligibility is terminated due to earned income will be given priority status with slots available for them as long as other eligibility factors are met and funding is available.

2. - 2.a. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 26:2827 (December 2000), LR 30:

§5107. Child Care Providers

A. The head of household, or parent/caretaker relative in the case of a STEP participant, shall be free to select a child

care provider of his/her choice including center-based child care (licensed Class A Day Care Centers and licensed Class A Head Start Centers which provide before-and-after school care and/or summer programs), registered Family Child Day Care Homes, in-home child care, and public and non-public BESE-regulated schools which operate kindergarten, pre-kindergarten, and/or before-and after school care programs.

B. - C. ...

D. Under no circumstance can the following be considered an eligible child care provider:

- 1. ...
2. the child's parent or guardian; or
3. parent/caretaker relative in the case of a STEP

participant, regardless of whether that individual lives with the child (if the child's non-custodial parent is residing in the Family Child Day Care Home (FCDCH) in which the child receives care and is not working during the hours that care is needed, the FCDCH provider is ineligible to receive Child Care Assistance payments for that child);

D.3. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444(December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:

§5111. Ineligible Payments

A. - B.2. ...

C. If an Intentional Program Violation is established, Fraud and Recovery will send a notice to the person to be disqualified and a copy of the notice to the parish office. The parish office will take action to disqualify for the appropriate situations:

- 1. - 2. ...
3. 24 months for the third violation and for any additional violations. EXCEPTION: The disqualification process will be waived for STEP participants and for participants in federally-or state-funded work or training programs.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2830 (December 2000), LR 30:

Subpart 13. Kinship Care Subsidy Program (KCSP)
Chapter 53. Application, Eligibility, and Furnishing Assistance.

Subchapter B. Conditions of Eligibility

§5321. Age Limit

A. A dependent child must be:

- 1. under 18 years of age; or
2. 18 years of age, enrolled in a secondary school or its equivalent and expected to graduate on or before his nineteenth birthday.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B and R.S. 46:237; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:352 (February 2000), amended LR 30:

§5335. School Attendance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B and R.S. 46:237; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:354 (February 2000), repealed LR 30:

§5339. Parenting Skills Education

A. As a condition of eligibility for KCSP benefits any child under age 19 who is pregnant or the parent of a child under the age of one must attend a parenting skills education program. Failure to meet this requirement without good cause shall result in that minor's ineligibility. Ineligibility will continue until the child has complied.

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, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:355 (February 2000), amended LR 30:

§5341. Drug Screening, Testing, Education and Rehabilitation Program

A. - C. ...

D. Failure to Cooperate. Failure or refusal of a recipient to participate in drug screening, testing, or participation in the education and rehabilitation program, without good cause, will result in ineligibility of the noncompliant individual. Cooperation is defined as participating in the component in which the recipient previously failed to cooperate. This includes drug screening, drug testing, or satisfactory participation for two weeks in an education and rehabilitation program.

E. ...

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; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:355 (February 2000), amended LR 30:

Subpart 16. Strategies to Empower People (STEP) Program

Chapter 57. Strategies to Empower People (STEP) Program

Subchapter A. Designation and Authority of State Agency

§5701. General Authority

A. The Strategies to Empower People Program is established in accordance with state and federal laws effective October 1, 2003, to assist recipients of cash assistance to become self-sufficient by providing needed employment-related activities and support services.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5703. Program Administration

A. The STEP program will be administered by OFS State Office, Regional and Parish staff.

B. The Department of Social Services will coordinate with the Louisiana Workforce Commission, who will identify, direct, and coordinate the provision of employment

services offered through the STEP program. These services will include but are not limited to:

1. job readiness, job preparation, and job search;
2. workplace literacy and related assessments; and
3. applicable skill-based training, employer-based training, and other employment activities designed to meet the needs of Louisiana employers with a preference towards demand occupations.

C. The Louisiana Workforce Commission shall coordinate the provision of services utilizing the Department of Labor, one-stop services centers, the Louisiana Community and Technical College system, and the Department of Education adult literacy and community-based organizations.

D. A grievance procedure is available for resolving displacement complaints by regular employees or their representatives relating to STEP participants. A grievance procedure is also available for resolving complaints by, or on behalf of, STEP participants in a work-related activity. This grievance procedure hears complaints relating to on-the-job working conditions and workers' compensation coverage.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5705. Definitions

Family Assessment consists of an initial employability assessment and a comprehensive assessment.

1. Initial employability assessment is designed to determine the applicant's level of employability, immediate needs, and family circumstances during the application process.

2. Comprehensive assessment is conducted once the applicant is certified for eligibility and shall include workplace literacy, basic skills and educational attainment, interests and aptitude related to employment, barriers to employment, need for education, supportive services such as child care and transportation, and other supportive services. Specialized assessments can occur for issues that arise after an initial assessment has been completed and could include substance abuse, domestic violence, mental health screening, or others as determined by the department.

Family Success Agreement (FSA) the mutually developed contract between a Family Independence Temporary Assistance Program (FITAP) recipient, on behalf of their family, and the agency that sets forth mutual and time-bound responsibilities, expectations, activities, and goals designed to transition the family from receipt of FITAP to self-sufficiency.

Family Transition Assessment (FTA) mutually developed plan between a FITAP recipient, on behalf of their family, and the agency, for those families nearing the end of their FITAP eligibility to identify the action plan necessary to enable a successful transition from receipt of FITAP to self-sufficiency.

Strategies to Empower People (STEP) the program that provides education, employment, training and related services for families receiving FITAP assistance.

Temporary Exception a limited time period in which the *work-eligible recipient* does not have to participate in an assigned work activity due to temporary incapacity or

illness, unavailable child care, or a domestic violence situation.

Work-Eligible Family a FITAP family (including cases which do not receive cash because their benefit would be less than \$10) which includes at least one adult under age 60 or a teen head of household who is not permanently disabled or incapacitated, or who is not caring for a family member who is permanently disabled or incapacitated as documented by a medical professional.

Work-Eligible Recipient an adult under age 60 or a teen head of household who is included in a *work-eligible family* and who is not permanently disabled or incapacitated, or who is not caring for a family member who is permanently disabled or incapacitated, as documented by a medical professional.

AUTHORITY NOTE: Promulgated in accordance with

P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5707. Domestic Violence

A. The secretary shall waive, for as long as necessary, pursuant to a determination of good cause, any public assistance program requirement that will create obstacles for a victim of domestic violence to escape a domestic violence situation, including but not limited to time limits on receipt of assistance, work, training or educational requirements, limitations on TANF requirements, residency requirements, and any other program requirements which will create obstacles for such victim to escape violence or penalize that victim for past, present, and potential for abuse. However, a victim of domestic violence shall develop a plan that specifies the necessary actions, goals, and services that may enable the victim to become free of a domestic violence situation. Such plan shall be made a component of the participant's Family Success Agreement.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

Subchapter B. Participation Requirements

§5709. School Attendance

A. Work-eligible FITAP recipients, in order to ensure appropriate child development, educational attainment, and school attendance for each minor child included in the assistance unit, shall agree in the Family Success Agreement (FSA) to:

1. actively participate in their child's education through parent-teacher conferences, homework assistance, or other activities; and

2. provide documentation to the department that they are ensuring school attendance and are engaged in the child's learning.

B. Work-eligible, minor parents who have not yet received a high school diploma or its equivalent shall attend school or related education classes designed to obtain a high school diploma or its equivalent. School attendance shall be the primary work activity for those minor parents who do not have a high school diploma or its equivalent.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5711. Parenting Skills Education

A. FITAP recipients who are pregnant or have a child under age one shall participate in parenting skills education. If the FITAP recipient is work-eligible, participation in parenting skills education shall be the primary work activity under the FSA. Applicable child care and transportation shall be provided to participants to enable their participation.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5713. Work Activities

A. Work-eligible recipients shall participate in appropriate work activities as agreed upon in the FSA. These activities may include but are not limited to:

1. subsidized or unsubsidized employment;
2. unpaid work experience;
3. on-the-job training;
4. job search;
5. job readiness;
6. vocational education;
7. attendance in secondary school for those individuals who have not graduated from high school;
8. participation in GED or basic skills training;
9. employment-related education;
10. job skills training;
11. community service; and
12. the provision of child care to an individual who is participating in community service.

B. Participants who are found not to possess basic workplace or basic literacy skills, as determined by an assessment, shall combine employment and job readiness and job search activities with activities designed to increase their basic and workplace literacy skills.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5715. Temporary Exceptions

A. A work-eligible applicant or recipient of cash assistance shall immediately participate in work activities for the minimum number of hours per week required by federal law unless one of the following exceptions applies. These temporary exceptions shall not exceed six months in a twelve-month period. The exceptions include:

1. temporary incapacity, illness or disability of household head as documented by a medical professional. The documentation shall include a description and reason for the incapacity, illness, or temporary disability, an indication of how long the condition is expected to persist, and a reasonable expectation of when the participant can return to a work activity. Incapacity, illness, or disability determined for a period of longer than six months shall be referred for eligibility to Supplemental Security Income assistance and to the Louisiana Rehabilitation Services;

2. inability to obtain appropriate child care; or
3. status as a victim of domestic violence based on evidence presented to the department which may include, but not limited to, information from law enforcement agencies or domestic violence providers. This exception shall only be granted if a participant develops a plan to address the domestic violence situation and incorporates this plan in the FSA.

B. During a period in which a participant receives a temporary exception to the work requirement, a revised FSA shall be developed to enable satisfactory progress toward meeting employment and educational activity requirements.

C. Participants who receive a temporary exception shall be informed that this time is counted against their time limits for receipt of cash assistance.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5717. Sanctions

A. Sanctions shall be used as a last resort to inform participants that they have not met the expectations set forth in the FSA. Participants shall be sanctioned for the following violations:

1. failure of the participant to provide documentation to the department that they are ensuring school attendance and are engaged with their child's learning;

2. failure of a work-eligible, minor parent with a child who has not yet received a high school diploma or its equivalent, to attend school or related education classes designed to obtain a high school diploma or its equivalent;

3. failure of a public assistance recipient who is pregnant or has a child under age one to attend parenting education and other training conducive to the unique needs of new parents;

4. failure of work-eligible families to meet the required employment and education activities for the minimum number of hours without good cause, as specified in the FSA; or

5. failure of work-eligible families to meet other requirements such as but not limited to immunization, cooperation with Support Enforcement Services, compliance with substance abuse screening, testing, treatment, etc. as specified in the FSA.

B. If it is determined that a work-eligible family has failed to meet the required activities as specified in the FSA without good cause, that family shall be ineligible for FITAP benefits as follows:

1. first sanctionCa minimum of one month or until compliance, whichever is longer;

2. second sanctionCa minimum of two months or until compliance, whichever is longer;

3. third or subsequent sanctionCa minimum of three months or until compliance, whichever is longer.

C. The following represent good cause for not complying with the requirements set forth in the FSA:

1. Appropriate child care or transportation is unavailable within a reasonable distance from the participant's home or worksite after efforts have been made, and assistance has been offered, to secure child care or transportation.

2. Situations related to domestic violence. Any participant that receives a good cause exception related to domestic violence shall complete a plan that specifies the necessary actions, goals, and services that may enable the victim to become free of the violence and incorporate this plan into their FSA.

3. Situations related to the treatment of a mental or physical illness, including substance abuse treatment, where there is verification that participation in required activities would impair a treatment plan of a mental health or medical

professional. Any participant that receives a good cause exception related to mental or physical illness shall incorporate the completion of the identified treatment plan in the FSA.

4. Temporary, short-term illness, or the temporary care of a family member who is ill, as documented by a medical professional.

5. Temporary emergency crisis, such as homelessness, fire, accident, dislocation due to natural causes, hurricane, flood, or similar circumstances that can be substantiated.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

Subchapter C. STEP Program Process

§5719. Family Assessment

A. A Family Assessment shall be completed on all FITAP/STEP applicants in order to assist the worker in identifying family strengths, weaknesses, opportunities and barriers as well as determining programs that the applicants will need to become self-sufficient.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5721. Job Readiness

A. A work-eligible applicant for cash assistance shall participate in job readiness activities as part of the core services available under STEP, unless the applicant is required to participate in parenting skills education or is already participating in an approved employment or education activity. The applicant shall receive an initial employability assessment designed to determine their level of employability, immediate needs, and family circumstances.

B. Job developers, through performance-based contracts, will provide job readiness services that shall include, but are not limited to:

1. workplace literacy assessment;
2. résumé development;
3. interview skills;
4. job search;
5. workplace standards and soft-skills development;
6. work ethics;
7. interest inventories related to job market and skills;
8. assistance with identification of available jobs and employers;
9. life skills development;
10. budget and financial management; and
11. client follow-up.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5723. Comprehensive Assessment

A. Once the applicant is certified for eligibility, a comprehensive assessment shall be conducted and include workplace literacy, basic skills and educational attainment, interests and aptitude related to employment, barriers to employment, need for education, supportive services such as child care and transportation, and other supportive services.

B. Specialized assessments can occur for issues that arise after an initial assessment has been completed and could

include substance abuse, domestic violence, mental health screening, or others as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5725. Family Success Agreement (FSA)

A. Upon determination of eligibility and after completion of the comprehensive assessment, work-eligible participants shall enter into a contractual agreement, known as the Family Success Agreement (FSA), with the department. The FSA will specify:

1. the client's time-bound goals, responsibilities, and work activity participation; and
2. the department's obligation to provide necessary supportive services, assessments, notifications, information, and case management.

B. The FSA shall be updated at least every six months or as the client's needs, goals, barriers, and family circumstances change.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5727. Family Transition Assessment

A. The department shall complete a Family Transition Assessment (FTA) to assist participants with their transition from cash assistance. The plan will be completed with participants who:

1. have received three of the six months of earned income disregard; or
2. have received 18 months of FITAP assistance; or
3. when it is determined that the family is leaving FITAP, whichever occurs first.

B. The FTA shall include but is not limited to:

1. a plan for on-going success in the work force;
2. identification of short and long-term goals;
3. identification of potential barriers and an action plan to overcome these barriers; and
4. information regarding eligibility for supportive services, including but not limited to Medicaid benefits, Food Stamp benefits, Child Care, transportation, Louisiana Child Health Insurance Program, the earned income tax credit, and TANF-funded services.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5729. Support Services

A.1. Clients may be provided support services that include but are not limited to:

- a. a full range of case maintenance and case management services designed to lead to self-sufficiency;
- b. transportation assistance;
- c. Food Stamp benefits;
- d. Medicaid benefits;
- e. Child Care;
- f. TANF-funded services;
- g. other services necessary to accept or maintain employment; and
- h. transitional benefits (post-FITAP support services).

2. These services may be provided to participants who are or become ineligible for cash assistance due to earned income. They include a transportation payment of \$120 per month and other supportive service payments not to exceed a combined total of \$200 per state fiscal year and used to cover certain costs deemed necessary for employment. The payments may begin with the first month of FITAP ineligibility and continue through the twelfth month of ineligibility or through the last month of employment, whichever comes first. The twelve months need not be consecutive.

B. Support services may be provided to:

1. persons participating in the Family Assessment;
2. persons referred by the Agency to other activities, such as drug counseling, prior to their participation in a work activity;
3. FITAP recipients participating in approved activities necessary to meet exemptions to the FITAP time limits.;
4. FITAP recipients to facilitate their attendance in the FITAP Drug Testing Program or Parenting Skills Program;
5. allow participation in educational activities for FITAP recipients who are exempt from STEP.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

Gwendolyn P. Hamilton
Secretary

0310#010

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2003 King Mackerel Season 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 9, 2003, to close the 2003 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:

That Declaration of Emergency signed by me on September 24, 2003 is hereby rescinded, annulled and avoided and in lieu thereof, the following Declaration of Emergency is issued.

Effective 12 p.m., October 4, 2003, the commercial fishery for king mackerel in Louisiana waters will close and remain closed through June 30, 2004. 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 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 closed at 12:00 noon September 24, 2003. Closing the season in state waters is necessary to provide effective Rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

James H. Jenkins, Jr.
Secretary

0310#008

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2003 Oyster Season

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S.49:967(D), and under the authority of R.S. 56:433(B)1 which provides that the Wildlife and Fisheries Commission may designate what parts or portions of the natural reefs may be fished for oysters, and it may suspend the fishing of oysters altogether from natural reefs not leased by it, when such reefs are threatened with depletion as determined by the department and a resolution adopted by the Wildlife and Fisheries Commission on August 6, 2003 which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action if necessary, to close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of shell in seed oyster loads, or if enforcement problems are encountered, the Secretary hereby declares:

The 2003 oyster season in the Sister (Caillou) Lake Public Oyster Seed Reservation will close on Friday, October 10, at one-half hour after sunset. Increases in fishing effort levels and harvest rates in comparison to recent years, recent spat set with a high probability of survival, recent declines in annual stock size, and evidence of unacceptable amounts of reef material onboard vessels harvesting seed oysters for bedding purposes is occurring within the area and this public oyster seed reservation is being closed to protect the oyster resource.

The oyster season in the primary public seed grounds east of the Mississippi River including that portion of Lake Borgne described in LAC 76:VII.513, the sacking only area of the public grounds which is generally Lake Fortuna and Lake Machias to a line from Mozambique Point to Point Gardner to Grace Point at the Mississippi River Gulf Outlet,

the Bay Gardene and Hackberry Bay Public Oyster Seed Reservations, the Little Lake Temporary Natural Reef and the Calcasieu Lake public tonging area will remain open.

James H. Jenkins Jr.
Secretary

0310#041

DECLARATION OF EMERGENCY

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

Camp Minden Handicapped Deer Hunt

In accordance with the emergency provision of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:115, the Secretary of the Department

of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopt the following Emergency Rule.

A Declaration of Emergency is necessary to set a physically challenged deer hunt at Camp Minden on October 11-12. Due to an oversight by the organizing committee of Wheeling Sportsmen, the physically challenged hunt at Camp Minden was erroneously scheduled for October 11-12 instead of October 4-5 which are the dates set by the Commission in July for the statewide physically challenged deer hunt. Organizers did not realize their mistake until it was too late to notify all of the 37 physically challenged hunters who are to participate in this annual event. Adoption of this Rule will allow the hunt to proceed.

Terry D. Denmon
Chairman

0310#042

Rules

RULE

Department of Culture, Recreation and Tourism Atchafalaya Trace Commission

Atchafalaya Trace Heritage Area Development Zone (LAC 25:XI.Chapter 3)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and the Atchafalaya Trace Commission (R.S. 25:1221-1226.6), the Atchafalaya Trace Commission has adopted the initial Rules of the Atchafalaya Trace Heritage Area Development Zone Review Board. The commission was established by Act 1440 of 1997 which enacted R.S. 25:1221-1225. The board was added by Act 112 of the First Extraordinary Session of 2002 enacting R.S. 25:1226-1226.6. The commission and board are situated in the Department of Culture, Recreation and Tourism and are domiciled in Baton Rouge. These Rules implement the 2002 Act creating the Atchafalaya Trace Heritage Area Development Zone Program. The Atchafalaya Trace Heritage Area Development Zone Program establishes a system of tax exemptions and credits for heritage-based cottage industries in the Atchafalaya Trace Heritage Area.

The Department of Culture, Recreation and Tourism, Atchafalaya Trace Commission, in accordance with R.S. 25:1221-1226.6 and R.S. 49:950, et seq., has enacted Chapter 3 of Part XI of Title 25 of the *Louisiana Administrative Code*, Atchafalaya Trace Heritage Area Development Zone. Adoption of these Rules is in response to legislation creating the Atchafalaya Trace Heritage Area Zone and Review Board.

Title 25

CULTURAL RESOURCES

Part XI. Office of the Secretary

Chapter 3. Atchafalaya Trace Heritage Development Zone

§301. Statement of Policy

A. In accordance with Act 112 of the First Extraordinary Session of 2002 enacting the Atchafalaya Trace Heritage Area Development Zone and pursuant to the Administrative Procedure Act, R.S. 49:950, et seq., the Atchafalaya Trace Commission adopted these Rules to provide for the application, review and recommendation process for heritage-based cottage industries in the Atchafalaya Trace Heritage Area to obtain tax credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:1224.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Atchafalaya Trace Commission, LR 29:2009 (October 2003).

§303. Purpose

A. The purpose and intent of this Chapter are:

1. to provide specific tax incentives for heritage-based cottage industries in the geographical area known as the Atchafalaya Trace Heritage Area; and

2. to assist individuals and businesses engaged in heritage-based commercial activities in obtaining capital and

tax incentives through existing programs administered by federal, state, and local agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:1224.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Atchafalaya Trace Commission, LR 29:2009 (October 2003).

§305. Definitions

Board—the Atchafalaya Trace Heritage Area Development Zone Review Board.

Commission—the Atchafalaya Trace Commission.

Cultural Heritage—those qualities that capture the traditions, customs, beliefs, history, folklore, ways of life, and material culture of the Atchafalaya Trace Heritage Area.

Department—the Department of Economic Development.

Development Zone—the Atchafalaya Trace Heritage Area Development Zone, which encompasses the territory of the following parishes in their entirety: St. Mary, Iberia, St. Martin, St. Landry, Avoyelles, Pointe Coupee, Iberville, Assumption, Terrebonne, Lafayette, West Baton Rouge, Concordia, and East Baton Rouge.

Full-Time Employee—a person employed at the business for at least 32 hours per week.

Heritage-Based Cottage Industry—a small business with no more than 20 full or part-time employees or an individual that is sustainably harnessing the Atchafalaya Trace Heritage Area's cultural heritage and natural heritage resources for purposes which include interpreting, accessing, developing, promoting, or reinforcing the unique character and characteristics of the heritage area. *Heritage-based cottage industries* shall include lodging, including bed and breakfasts, camping, houseboats and recreational vehicle facilities; museums, including living museums and interpretive facilities; artists and craftsmakers of authentic or locally made products; authentic food packaging, production, and harvesting; music production and instrument making; historic homes, house museums, and historic sites; boat, canoe, kayak, and bicycle rentals; wild and scenic sites; hunting, fishing, and birding guide services; tour planning and cultural guide services; swamp tours, airboat tours, helicopter tours, plane tours, and balloon tours; retail facilities of authentic products, and agricultural tours. *Heritage-based cottage industry* shall not include hotels, motels, restaurants, gaming facilities, churches, and housing. A *heritage-based cottage industry* may be a new, existing, or expanding business. In order to qualify as a *heritage-based cottage industry* for purposes of this Part, the owner of the business must be a resident of the Heritage Area Development Zone.

Natural Heritage—one of those qualities that capture the environmental features of the Atchafalaya Trace Heritage Area, including man-made and natural resources and wildlife.

Part-Time Employee—a person employed at the business for at least 20 hours per week.

Qualifying Employee—a full-time or part-time employee whose job duties are either:

1. primarily related directly to sustainably harnessing the cultural heritage or natural heritage resources of the Atchafalaya Heritage Area; or
2. secondarily related by virtue of performing a support function regarding the business activities related to sustainably harvesting the cultural heritage or natural heritage resources of the Atchafalaya Heritage Area.

Review Board the Atchafalaya Trace Heritage Area Development Zone Review Board.

Small Business any person or legal entity engaged in any trade, occupation, profession, commercial, mercantile, or industrial activity with no more than 20 full-time or part-time employees.

Sustainably Harnessing utilizing a resource so as to not permanently deplete or damage that resource or permanently alter or damage the environment in which it occurs or grows.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:1224.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Atchafalaya Trace Commission, LR 29:2009 (October 2003).

§307. Application for Tax Credit or Exemption

A. An applicant for tax credits or exemptions under R.S. 25:1226.4 shall provide the following:

1. name of business this shall be the complete legal name of the business;
2. parent company, if applicable;
3. physical address:
 - a. principal place of business;
 - b. each location where significant operations of the business occur;
4. ownership information this shall include all owners, either direct or through ownership of stock or partnership shares;
5. parish of residence for all owners listed in §307.A.4;
6. parish in which the principal place of business is located;
7. parish in which any significant operations of the business occur;
8. type of business entity;
9. contact information;
10. tax information:
 - a. federal tax identification number or social security number for all persons or entities listed in §307.A.4;
 - b. Louisiana Department of Revenue tax identification number;
 - c. Louisiana Unemployment Insurance identification number;
11. current employment information:
 - a. total number of employees:
 - i. full-time;
 - ii. part-time;
 - b. number of employees at each location listed in §307.A.3;
 - c. list of the names, job titles, and Social Security numbers of all employees;
12. description of business, including the business's use or access to cultural and natural heritage of the Atchafalaya Heritage Area;
13. gaming activities, if any, conducted by the business.

B. For each qualifying employee for which the new employee tax credit is claimed, provide the following:

1. name;
2. residence address;
3. parish of residence;
4. social security number;
5. hours worked per week at the business;
6. length of residence at address listed;
 - a. if length of residence is less than 30 days, provide previous residence address;
 - b. evidence of residence at listed address(es); examples include:
 - i. utility bills in employee's name at that address;
 - ii. voter registration card;
 - iii. driver's license;
 - iv. homestead exemption or property tax notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:1224.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Atchafalaya Trace Commission, LR 29:2010 (October 2003).

§309. Criteria for Reviewing Applications

A. The review board shall review the applications for tax credits and exemptions using the following criteria:

1. the specific cultural heritage resource or natural heritage resource being utilized;
2. the purpose for which the resource is utilized;
3. the relationship of that purpose or final product to the cultural heritage or natural heritage of the Atchafalaya Heritage Area;
4. the degree to which the purpose or final product relates to or expresses the unique character and characteristics of the Atchafalaya Heritage Area;
5. the location and ownership of the business;
6. the residence of the owner and each qualifying employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:1224.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Atchafalaya Trace Commission, LR 29:2010 (October 2003).

Phyllis Mayo
Executive Director

0310#017

RULE

**Department of Economic Development
Office of the Secretary**

Capital Companies Tax Credit Program
(LAC 10:XV.327)

The Department of Economic Development, Office of the Secretary, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and in accordance with R.S. 51:1929, has adopted the following additional Rules for the Louisiana Capital Companies Tax Credit Program, in order to provide direction to certified Louisiana capital companies who are seeking to invest certified capital in "Louisiana-based economic development infrastructure projects," as such term is used in R.S. 51:1923(12)(c) of the Louisiana Capital Companies Tax Credit Program (the "CAPCO Program"). The term "Louisiana-based economic development infrastructure

projects" is not defined in the CAPCO Program. These Rules are intended to provide a procedure for certified Louisiana capital companies seeking a designation of a "Louisiana-based economic development infrastructure project" for an intended investment in order to qualify for the tax credit under this program; and these Rules further provide criteria that a project must meet in order to qualify for such a designation.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES, AND UCC**

Part XV. Other Regulated Entities

Chapter 3. Capital Companies Tax Credit Program

**§327. Louisiana-Based Economic Development
Infrastructure Projects**

A. An applicant seeking this designation for an intended investment shall provide to the secretary the following information along with the request for this designation:

1. a description of the project;
2. a description of all sources and uses of financing for the project;
3. a description of the proposed investment;
4. an analysis of how the investment in the project furthers economic development within Louisiana;
5. a calculation of the percentage of the certified Louisiana capital company's total certified capital and total certified capital under management which will be invested in the project;
6. an analysis of whether the entity in which the certified Louisiana capital company proposes to invest is a qualified Louisiana business;
7. an analysis of whether the proposed investment meets the criteria set forth in §303.A.*Investment*. b;
8. a statement as to whether the business in which the certified Louisiana capital company proposes to invest, intends to acquire any real estate for resale or whether any real estate in which the certified Louisiana capital company proposes to invest is intended to be resold;
9. the charter documents for the entity that owns the Louisiana-based economic development infrastructure project and each intervening entity through which the certified Louisiana capital company owns its interest in the Louisiana-based economic development infrastructure project; and
10. copies of all management, maintenance, operations and other agreements which the certified Louisiana capital company contemplates being executed with respect to the Louisiana-based economic development infrastructure project, or if no such agreements have yet been prepared, a description of all contemplated arrangements.

B. A Louisiana-based economic development infrastructure project shall be designated by the secretary for purposes of qualifying the investment under R.S. 1923(12)(c) if it meets the criteria set forth in each of Paragraphs 1 through 5 of this Subsection B, or if it meets other criteria determined by the secretary from time to time.

1. The information shall demonstrate that 100 percent of the funds invested by the certified Louisiana capital company shall be used directly or indirectly:

- a. for the acquisition, construction, modification, refurbishment or remodeling of physical facilities, other

immovable property improvements or movable property which becomes affixed to or a component part of immovable property, in each case, located in Louisiana; or

- b. as attendant expenses related to the investments, including without limitation, closing expenses, capital expenditure reserves, working capital, and reasonable fees and expenses relating to the management and operation of the facilities.

2. The facilities must accomplish at least two of the following, as determined by the secretary, or shall accomplish such other objectives as the secretary may determine from time to time:

- a. provide below-market rental environments for "disadvantaged businesses" as defined in R.S. 51:1923(7);

- b. provide attractive rental environment for the attraction of out-of-state companies in the targeted clusters identified in the state's Vision 2020 Plan to locate headquarters or operations in Louisiana;

- c. provide below-market rental environments for qualified Louisiana startup businesses as defined in R.S. 51:1923(14);

- d. provide attractive rental environments for qualified Louisiana technology-based businesses as defined in R.S. 51:1923(15); or

- e. provide below market cost services.

3. The investment by the certified Louisiana capital company in the Louisiana-based economic development infrastructure project shall be made either to acquire an equity interest in an entity that directly or indirectly owns or acquires an interest in a Louisiana-based economic development infrastructure project, to provide debt financing to an entity that owns or acquires an interest in the Louisiana-based economic development infrastructure project, or to provide a combination of these investment mechanisms.

4. The secretary shall review and approve of the percentage of the certified Louisiana capital company's certified capital and total certified capital under management that is invested in the proposed project or project entity, at his or her discretion.

5. The secretary may adopt additional criteria for his or her approval of Louisiana-based economic development infrastructure projects.

C. An investment approved by the secretary which is made by a certified Louisiana capital company in a Louisiana-based economic development infrastructure project or an entity that directly or indirectly owns an interest in a Louisiana-based economic development infrastructure project in accordance with this Rule shall be deemed to "further economic development within Louisiana" for purposes of R.S. 51:1923(12).

D. Following the secretary's designation of an investment by a certified Louisiana capital company as a qualified investment in a Louisiana-based economic development infrastructure project, the secretary shall issue a letter to the certified Louisiana capital company applicant confirming the designation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1929.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 29:2011 (October 2003).

RULE

Board of Elementary and Secondary Education

Bulletin 104C Louisiana K-12
Educational Technology Standards
(LAC 28:LXXV.Chapter 1)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted *Bulletin 104C Louisiana K-12 Educational Technology Standards*. Bulletin 104 will be printed in codified format as Part LXXV of the *Louisiana Administrative Code*. The Louisiana K-12 Educational Technology Standards will be disseminated to local school districts following publication. The document was previously disseminated to districts as guidelines. The significance of the change to standards is the weight of required implementation. The change from guidelines to standards strengthen the implementation of educational technology initiatives throughout all schools and classrooms in the state.

Title 28

EDUCATION

Part LXXV. Bulletin 104C Louisiana K-12 Educational Technology Standards

Chapter 1. Purpose

Subchapter A. Educational Technology

§101. Mission Statement

A. This document provides a framework for the integration of technology across the curriculum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2012 (October 2003).

§103. Philosophy

A. The Louisiana K-12 State Educational Technology Standards are based on the National Educational Technology Standards and the Louisiana State Content Standards. These technology standards support the beliefs set forth by the state educational technology goal: "All educators and learners will have access to technologies that are effective in improving student achievement."

B. The Louisiana K-12 State Educational Technology Standards parallel the foundation skills and core understandings embodied in the Louisiana Content Standards. Additionally, the standards are designed to reflect the conviction that technology is best understood and taught in a realistic and integrated setting in a variety of curriculum areas. The alignment of the technology standards with the foundation skills provides for such integration across all content areas. Consequently, these standards and the associated performance indicators are to be integrated in all aspects of the curriculum and not taught in isolation, utilizing fully the resources of the classroom, the school, and the community. The technology standards promote the development of technology/information literate students, including those with disabilities, to be self-directed learners, who individually and collaboratively use

technology/information responsibly to create quality products and to be productive citizens. The focus is on learning with information and technology rather than learning about technology. Integration of these standards will be varied and dynamic, reflecting the diversity of instructional and student needs in our schools and districts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2012 (October 2003).

§105. Definition

A. Technology consists of any electronic tool used for solving problems, communicating clearly, processing information, increasing productivity, accomplishing a task, making informed decisions, and enhancing the quality of life.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2012 (October 2003).

Subchapter B. Standards

§107. Technology Communication Tools

(Communication Foundation Skill)

A. Students use telecommunications to collaborate, publish, and interact with peers, experts and other audiences.

B. Students use a variety of media and formats to communicate and present information and ideas effectively to multiple audiences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2012 (October 2003).

§109. Technology Problem-Solving and Decision- Making Tools (Problem Solving Foundation Skill)

A. Students use appropriate technology resources for solving problems and making informed decisions.

B. Students employ technology for real world problem solving.

C. Students evaluate the technology selected, the process, and the final results through the use of informed decision-making skills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2012 (October 2003).

§111. Technology Productivity Tools (Resource Access and Utilization Foundation Skill)

A. Students use technology tools to enhance learning, increase productivity, and promote creativity.

B. Students use productivity tools to work collaboratively in developing technology-rich, authentic, student-centered products.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2012 (October 2003).

§113. Technology Research Tools (Linking and Generating Knowledge Foundation Skill)

A. Students use appropriate technology to locate, evaluate, and collect information from a variety of sources.

B. Students use technology tools to process data and report results.

C. Students evaluate and select new information resources and technological innovations based on the appropriateness to specific tasks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2012 (October 2003).

§115. Social, Ethical, and Human Issues (Citizenship Foundation Skill)

A. Students understand the ethical, cultural, and societal issues related to technology.

B. Students practice responsible use of technology systems, information, and software.

C. Students develop positive attitudes toward technology uses that support lifelong learning, collaboration, personal pursuits, and productivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2013 (October 2003).

§117. Basic Operations and Concepts

A. Students demonstrate a sound understanding of the nature and operation of technology systems.

B. Students are proficient in the use of technology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2013 (October 2003).

§119. Technology Standards and State Foundation Skills

A. How do the Technology Standards align with the State Foundation Skills?

Foundation Skills	Technology Standards
Communication	Technology Communication Tools
Problem Solving	Technology Problem Solving and Decision-Making Tools
Resource Access and Utilization	Technology Productivity Tools
Linking and Generating Knowledge	Technology Research Tools
Citizenship	Social, Ethical, and Human Issues Basic Operations and Concepts

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2013 (October 2003).

Subchapter C. Performance Indicators

§121. Grades K-4

A. The following performance indicators should be used as standards in integrating technology into the content standards.

1. Identify, explain, and effectively use input, output and storage devices of computers and other technologies (e.g., keyboard, mouse, scanner, adaptive devices, monitor, printer floppy disk, hard drive). (5,6)

2. Use accurate and developmentally appropriate terminology (e.g., cursor, software, hardware, pull down menu, window, disk drive, hard drive, CD-ROM, laser disc) when referring to technology. (6)

3. Discuss common uses of technology in daily life and the advantages and disadvantages those uses provide. (5,6)

4. Discuss basic issues related to responsible use of technology and information; and describe personal consequences of inappropriate use. (5)

5. Use a variety of developmentally appropriate resources and productivity tools (e.g., logical thinking programs, writing and graphic tools, digital cameras, graphing software) for communication, presentation, and illustration of thoughts, ideas, and stories (e.g., signs, posters, banners, charts, journals, newsletters, and multimedia presentation). (1,3,4)

6. Use technology tools (e.g., publishing, multimedia tools, and word processing software) for individual and for simple collaborative writing, communication, and publishing activities for a variety of audiences. (1,3)

7. Gather information and communicate with others using telecommunications (e.g., email, video conference, internet) with support from teachers, family members, or peers. (1,4,5,6)

8. Utilize search strategies employing keywords, phrases, and Boolean operators (and, or, not) to access and retrieve information. (4)

9. Evaluate electronic information for accuracy, relevance, appropriateness, comprehensiveness, and bias. (2,4,5)

10. Use technology resources to assist in problem-solving, self-directed learning, and extended learning activities. (2,4)

a. Technology Communication Tools

b. Technology Problem Solving and Decision-Making Tools

c. Technology Productivity Tools

d. Technology Research Tools

e. Social, Ethical, and Human Issues

f. Basic Operations and Concepts

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2013 (October 2003).

§123. Grades 5-8

A. The following performance indicators should be used as standards in integrating technology into the content standards.

1. Identify and define computer and networking terms (e.g. modem, file server, client station, LAN, Internet/Intranet, data storage device). (6)

2. Understand and apply common troubleshooting techniques. (6)

3. Demonstrate the operations of a computer (e.g., touch-keyboarding skills, save, organize and back-up files) and other peripheral devices (scanner, digital and video cameras, VCR, laser disc player) at an intermediate level. (6)

4. Compose and edit a multi-page document with appropriate formatting using word-processing skills (e.g., menu, tool bars, dialog boxes, spell check, thesaurus, page layout, headers and footers, word count, margins, tabs, spacing, columns, page orientation). (1,3,6)

5. Use information, media, and technology in a responsible manner which includes following the school's acceptable use policy, adhering to copyright laws, respecting the rights of others, and employing proper etiquette in all forms of communication. (4,5)

6. Recognize the importance of information technology and its effect on the workplace and society. (5)

7. Use multimedia tools and desktop publishing to develop and present computer-generated projects for directed and independent learning activities. (1,3)

8. Use technology tools (e.g., multimedia authoring, writing tools, digital cameras, drawing tools, web tools) to gather information for problem solving, communication, collaborative writing and publishing to create products for various audiences. (1,3,4)

9. Demonstrate intermediate e-mail skills (e.g., sending attachments, organizing an address book, forwarding messages). (1,4)

10. Understand Internet concepts (e.g., website, hypertext link, bookmarks, URL addresses) and apply intermediate on-line searching techniques (e.g., employ keyword, phrases, and Boolean Operators). (1,4)

11. Use telecommunications and online resources efficiently and effectively to collaborate with peers, experts, and others to investigate curriculum-related problems, issues, and information and to develop solutions or products for various audiences. (1,2,3,4)

12. Communicate information using spreadsheets and databases to visually represent data and integrate into other documents (e.g., entering data, formatting using formulas, analyzing data, and sorting). (1,2,3,4)

13. Determine when technology is useful and select the appropriate tool(s) and technology resources to address a variety of tasks and problems. (2)

14. Research and evaluate the accuracy, relevance, appropriateness, comprehensiveness, and bias of electronic information. (2,4,5)

a. Technology Communication Tools

b. Technology Problem Solving and Decision-Making Tools

c. Technology Productivity Tools

d. Technology Research Tools

e. Social, Ethical, and Human Issues

f. Basic Operations and Concepts

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2013 (October 2003).

§125. Grades 9-12

A. The following performance indicators should be used as standards in integrating technology into the content standards.

1. Apply strategies for identifying and solving routine hardware and software problems that occur during everyday use. (6)

2. Make informed choices among technology systems, resources, and services. (5,6)

3. Demonstrate knowledge and skills of Internet use and other resources consistent with acceptable use policies including the legal consequences of plagiarism and the need for authenticity in student work through an understanding of copyright issues. (5)

4. Demonstrate and advocate legal and ethical behaviors among peers, family, and community regarding the use of technology and information. (5)

5. Explain and use advanced terminology, tools, and concepts associated with software applications, telecommunications, and emerging technologies. (1,3)

6. Use technology tools and resources for managing and communicating personal/professional information (e.g., finances, schedules, addresses, purchases, correspondence). (1,3)

7. Refine knowledge and enhance skills in keyboarding, word processing, desktop publishing, spreadsheets, databases, multimedia, and telecommunications in preparing and presenting classroom projects. (3,6)

8. Collaborate (e.g., desktop conferencing, e-mail, on-line discussions) with peers, experts, and others to compile, synthesize, produce and disseminate information, models, and other creative works. (1,2,3,5)

9. Evaluate technology-based options for lifelong learning. (4)

10. Use appropriate technology to locate, retrieve, organize, analyze, evaluate, and communicate information for problem solving and decision making. (1,2,4)

11. Evaluate the usage of technology and the processes involved during and upon completion of individual and group projects. (2,5)

a. Technology Communication Tools

b. Technology Problem Solving and Decision-Making Tools

c. Technology Productivity Tools

d. Technology Research Tools

e. Social, Ethical, and Human Issues

f. Basic Operations and Concepts

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2014 (October 2003).

Weegie Peabody

Executive Director

0310#021

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for
School Administrators C 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, Board of Elementary and Secondary Education has amended Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in IR 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 remove outdated information.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15); R.S. 17:7(5), (7), and (11); R.S. 17:10 and 11; R.S. 17:22(2) and (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 28:269 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:2014 (October 2003).

* * *

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 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.

New schools with one year of test data shall be included in accountability. For attendance and dropout data, LEA's shall have the option of using:

1. the district average for schools in the same category as the new school;
2. data from the prior year, if whole grade levels from an existing school or schools moved to the new school;

Any references to Supplemental Educational Services in this policy apply to Title I schools only.

Beginning in 2003, for schools that may be subject to choice and/or Supplemental Educational Services provisions, the LDE shall annually release preliminary School Performance Scores and Corrective Action status at least two weeks prior to the first day of the school year following the school year in which the assessment data was collected. Final School Performance Scores will be issued during the fall semester each year.

Formula for Calculating an SPS [K-6]			
All intermediate results and the final result shall be rounded to the nearest tenth.			
The SPS for a K-6 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, [(66.0 * 60%) + (75.0 * 30%) + (50.0 * 10%)] = 67.1			
Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
SPS = 67.1			

Criterion-Referenced Tests (CRT) Index Calculations	
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 times 4 (number of subjects). 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
Mastery (Exceeding the Standard) =	150 points
Basic (Meeting the Standard) =	100 points
Approaching Basic (Approaching the Standard) =	50 points
Unsatisfactory =	0 points

Option I students: those students failing the 8th grade LEAP 21 that have been

- retained on the 8th grade campus
- must retake all parts of the 8th Grade LEAP 21

If, during spring testing, a repeating fourth grade student or Option I 8th grade student receives a score of Approaching Basic (Approaching the Standard) 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.)

Formula for Calculating a CRT Index for a K-8 School	
1)	Calculate the total number of points by multiplying the number of students at each performance level times by the points for those respective performance levels, for all content areas and summing those products.
2)	Add to the sum any Incentive Points and divide by the product of 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.

Norm-Referenced Tests (NRT) Index Calculations [K-8]
 For the NRT Index, composite standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged 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 composite standard score, then the index for that student is calculated as follows:	
Grade 3:	Index 3rd grade = $(4.167 * SS) - 679.2$
Grade 5:	Index 5th grade = $(2.941 * SS) - 544.1$
Grade 6:	Index 6th grade = $(2.500 * SS) - 477.5$
Grade 7:	Index 7th grade = $(2.174 * SS) - 428.3$

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.
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 using the prior two years' average attendance rates as compared to the State's goals.	

	10-Year Goal	20-Year Goal
Grades K-8	95%	98%
Attendance Index Formula Grades K-8		
Indicator (ATT K-8) = $(16.667 * ATT) - 1483.4$		
Where ATT is the attendance percentage, the Index Formula uses the definition of attendance established by the Louisiana Department of Education.		

Lowest Attendance Index Score	
Zero shall be the lowest Attendance Index score reported for accountability calculations.	

Dropout Index Calculations		
A Dropout Index score for each school shall be calculated using the prior two years' average dropout rates as compared to the State's goals.		
	10-Year Goal	20-Year Goal
Grades 7 & 8	4%	2%

The national definition of dropout shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

Dropout Index Formulas	
Non-Dropout Rate (NDO) = $100 - \text{Dropout Rate (DO)}$ (expressed as a percentage)	
Grades 7 & 8	Dropout Index (7-8) = Indicator (DO Gr 7-8) = $(25 * NDO) - 2300.0$ NDO = $(\text{Indicator DO Gr 7-8} + 2300.0) / 25$

Lowest Dropout Index Score	
Zero shall be the lowest Dropout Index score reported for accountability calculations.	

Formula for Calculating an SPS [K-8]			
The SPS for a K-8 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, $[(71.2 * 60\%) + (76.1 * 30\%) + (87.7 * 5\%) + (90.4 * 5\%)] = 74.4$			
Indicator	Index Value	Weight	Indicator Score
CRT	71.2	60%	42.7
NRT	76.1	30%	22.8
Attendance	87.7	5%	4.4
Dropout	90.4	5%	4.5
SPS = 74.4			

School Performance Scores for 9-12

Formula for Calculating an SPS for 9-12 and Combination Schools.

The SPS for a 9-12 school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is $SPS = (.60 * CRT \text{ Adjusted Achievement Index}) + (.30 * NRT \text{ Adjusted Achievement Index}) + (.05 * Dropout \text{ Index})$

$$+ (.05 * Attendance \text{ Index})$$

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	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

Criterion-Referenced Tests (CRT) Index Calculations [9-12]

A high school's CRT Index score equals the sum of the student totals divided by the number of tests those students were eligible to take. 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
Mastery (Exceeding the Standard)	150 points
Basic (Meeting the Standard)	100 points
Approaching Basic (Approaching the Standard)	50 points
Unsatisfactory	0 points

Norm-Referenced Tests (NRT) Index Calculations [9-12]

For the NRT Index, composite standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged 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	55th	263
20-Year Goal	75th	287

NRT Formulas Relating Student Standard Scores to NRT Index [9-12]

If the 10-Year and 20-Year Goals are the 55th and 75th percentile ranks respectively and if the SS = a student's composite standard score, the index for a grade 9 student is calculated as follows:

$$\text{Index 9th grade} = (2.083 * SS) - 447.8$$

Only with the exception of grade 8 Option II students, all Louisiana students in grades three through eleven will participate in only one of the following state assessments on an annual basis:

- LEAP 21 or,
- GEE 21 or,
- Iowa On-Level or,
- LEAP Alternate Assessment B (LAA-B) or,
- LEAP Alternate Assessment (LAA)

Formula for Calculating the NRT and CRT Adjusted Achievement Index for a High School

- 1) 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.
- 2) Divide the sum 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.
- 3) 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 + .07, the grade 10 CRT Index shall be multiplied by the grade 9 and grade 10 non-dropout rates + .07, and the grade 11 CRT Index shall be multiplied by the grade 9, grade 10 and grade 11 non-dropout rates + .07. Any Option II student who passes a previously failed portion of the CRT earns 50 Incentive Points for his/her high school. Add any Option II Incentive points to the NRT value after multiplying to adjust for dropouts. This operation shall yield the Adjusted Achievement Index.
- 4) 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: NRT Adjusted Achievement Index = Raw Achievement Index * (1-DO Gr 9 + .07)

$$\text{CRT Adjusted Achievement Index (Gr 10)} = \text{Raw Achievement Index} * (1-\text{DO Gr 9} + .07) * (1-\text{DO Gr 10} + .07)$$

$$\text{CRT Adjusted Achievement Index (Gr 11)} = \text{Raw Achievement Index} * (1-\text{DO Gr 9} + .07) * (1-\text{DO Gr 10} + .07) * (1-\text{DO Gr 11} + .07)$$

<p>Example 1 – Grade 9:</p> <ul style="list-style-type: none"> ▪ Before beginning grade 9, a class has 50 students; by the end of September, 45 remain in the class. The grade 9 dropout rate is $(5/50) = .100.$ ▪ The number of points earned on the NRT is 5000. ▪ The raw achievement index is $5000/45 = 111.1.$ ▪ The adjusted achievement index is $111.1 \times (1 - .100 + .07) = 107.8.$ <p>Example 2 – Grade 10:</p> <ul style="list-style-type: none"> ▪ Another 5 students dropout before October of grade 10. The grade 10 dropout rate is $5/45 = .111.$ ▪ The 40 students remaining in the class earn 10,000 points on the two CRT tests. The raw achievement index is $10,000/(40 * 2) = 125.0.$ ▪ The adjusted achievement index is $125.0 \times (1 - .100 + .07) \times (1 - .111 + .07) = 116.3.$

Attendance Index Calculations for Grades 9-12		
An Attendance Index score for each high school shall be calculated using the prior two years' average attendance rates as compared to the State's goals.		
	10-Year Goal	20-Year Goal
Grades 9-12	93%	96%
Attendance Index Formula for Grades 9-12		
If the 10-Year and 20-Year Goals are 93% and 96% average attendance respectively and if the ATT = attendance percentage using the definition of attendance established by the Department of Education, the attendance index is calculated as follows: $\text{Indicator (ATT 9-12)} = (16.667 * \text{ATT}) - 1450.0.$		
Example:		
<ul style="list-style-type: none"> ▪ If the average attendance percentage is 94.3%, the Attendance Index would be $(16.667 * 94.3) - 1450.0 = 121.7.$ 		
Zero shall be the lowest Attendance Index score reported for accountability calculations.		

Dropout Index Calculations for Grades 9-12		
A Dropout Index score for each high school shall be calculated using the prior two years' average dropout rates as compared to the State's goals.		
	10-Year Goal	20-Year Goal
Grades 9-12	7%	3%
Dropout Index Formula for Grades 9-12		
$\text{Dropout Index} = 187.5 - (12.5 \times \text{dropout rate})$		
Example:		
If the dropout rate is 4.5%, the Dropout Index would be $187.5 - (12.5 * 4.5) = 131.3.$		
Zero shall be the lowest Dropout Index score reported for accountability calculations.		

The national definition of dropout shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

School Performance Scores for Combination Schools
Combination Schools are schools that contain a 10th and/or 11th grade and that also contain a 4th and/or 8th grade.

The formula for calculating an SPS for Combination Schools is defined in the High School calculations.

Formula for Calculating a CRT Index for a Combination School
<ol style="list-style-type: none"> 1. Calculate the CRT Index score for the K-8 portion of the school as instructed above in the K-8 directions. 2. Calculate the CRT Adjusted Index score for the 9-12 portion of the school as instructed above in the 9-12 directions. 3. Multiply the K-8 CRT Index by the number of students eligible to take the K-8 CRT times 4 (number of subjects). Multiply the 9-12 CRT Adjusted Index by the number of tests 9-12 students were eligible to take. 4. Sum the two products in step 3. 5. Divide the sum in step 4 by the sum of tests all students (K-12) were eligible to take. $[(\text{K-8 CRT Index} * \text{number students eligible to test} * 4) + (\text{9-12 CRT Adjusted Index} * \text{number of tests students were eligible to take})] / \text{Total of tests K-12 students were eligible to take.}$

Formula for Calculating a NRT Index for a Combination School
<ol style="list-style-type: none"> 1. Calculate the NRT Index score for the K-8 portion of the school as instructed above in the K-8 directions. 2. Calculate the NRT Adjusted Index score for the 9-12 portion of the school as instructed above in the 9-12 directions. 3. Multiply the K-8 NRT Index by the number of students eligible to take the K-8 NRT. Multiply the 9-12 NRT Adjusted Index by the number of 9-12 students eligible to take the NRT. Sum the two products. Divide the sum by the number of K-12 students eligible to take the NRT. $[(\text{K-8 NRT Index} * \text{number students eligible to test}) + (\text{9-12 NRT Adjusted Index} * \text{number of students eligible to test})] / \text{Total K-12 students eligible to test.}$

Formula for Calculating an Attendance Index for a Combination School

1. Calculate the Attendance Index for the K-8 portion of the school as instructed above in the K-8 directions.
2. Calculate the Attendance Index for the 9-12 portion of the school as instructed above in the 9-12 directions.
3. Multiply the K-8 Attendance Index by the K-8 enrollment total. Multiply the 9-12 Attendance Index by the 9-12 enrollment total. Sum the two products. Divide the sum by the number of K-12 students enrolled in the school.

$[(K-8 \text{ Attendance Index} * \text{number of K-8 students}) + (9-12 \text{ Attendance Index} * \text{number of 9-12 students})] / \text{Total K-12 enrollment.}$

Formula for Calculating a Dropout Index for a Combination School

1. Calculate the Dropout Index for the K-8 portion of the school as instructed above in the K-8 directions.
2. Calculate the Dropout Index for the 9-12 portion of the school as instructed above in the 9-12 directions.
3. Multiply the K-8 Dropout Index by the 7-8 enrollment total. Multiply the 9-12 Dropout Index by the 9-12 enrollment total. Sum the two products. Divide the sum by the number of 7-12 students enrolled in the school.

$[(K-8 \text{ Dropout Index} * \text{number of 7-8 students}) + (9-12 \text{ Dropout Index} * \text{number of 9-12 students})] / \text{Total 7-12 enrollment.}$

2.006.05 Growth Targets. Each school shall receive a Growth Target that represents the amount of progress it must

make every two years to reach the state's 10- and 20-year goals.

In establishing each school's Growth Target, the SPS inclusive of students with disabilities shall be used as the baseline. (See Standard 2.006.18.) However, the percentage of students with disabilities varies significantly across schools and the rate of growth for such students, when compared to regular education students, may be different. Therefore, the proportion of students with disabilities eligible to participate in the CRT or NRT in each school will be a factor in determining the Growth Target for each school.

Growth Targets [K-12]

During the first ten years, the formula is the following:

$[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]$ or 5 points, whichever is greater

where

PropSE = the number of special education students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. For purposes of this calculation, gifted, talented, and 504 students shall not be counted as special education students, but shall be included in the calculations as regular education students.

PropRE = 1 - 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 combination schools, the Louisiana Department of Education shall use 2 years of data (2002 and 2003) to determine if a school has met its growth target for cycle 1. Combination schools shall use the following formula to calculate a growth target:

$[[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]]$, or 5 points, whichever is greater.

Growth Targets for New or Reconfigured Schools

Once a baseline for the new or reconfigured school has been established, a Growth Target shall be set based on the number of cycles remaining until 2009 (K-8) and 2011 (9-12), with a maximum Growth Target of 20 points.

For example, suppose an elementary school enters the Accountability System in 2003 and establishes a baseline SPS of 50 in 2005. Normally, the school's Growth Target would be $(100 - 50)/2 = 25$. Under this rule, the school's Growth Target shall be 20, the maximum.

Growth Targets for Reconstituted Schools

Until 2009 (for K-8 schools) and 2011 (for 9-12 schools), the reconstituted school's Growth Target shall be equal to 100 minus the SPS divided by 5 minus the number of cycles since reconstitution.

For example, suppose a school is reconstituted in 2005 and has a SPS of 50 (based on previous year's data). The school's Growth Target for the first cycle after reconstitution shall be 10 points $[(100 - 50)/5]$.

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 its subgroups

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.

Districts and the LDE shall evaluate any instance of Irregularity or Unusual Data (See Standard 2.006.04) in the following respects for determining the allocation of rewards:

- If Irregularities are resolved and the data is corrected before rewards are provided, then the rewards will be based upon the corrected data.
- If the Irregularities are resolved and the data is corrected after rewards have been distributed, then the school shall be required to repay any rewards for which it was ineligible as determined by the audit findings or the SBESE will subtract the reward amount from future funds to be awarded to the district or from some other source.

Pairing/Sharing of Schools with Insufficient Test Data

2.006.15 In order to receive a SPS, a given school must have at least one grade level of CRT testing and at least one grade level of NRT testing. A school that does not meet this

requirement must be either "paired or shared" with another school in the district as described below. For the purpose of the Louisiana Accountability System, such a school shall be defined as a "non-standard school."

A school with a grade-level configuration such that it participates in neither the CRT nor the NRT (e.g., a K, K-1, K-2 school) must be "paired" with another school that has at least one grade level of CRT testing and one grade level of NRT testing. This pairing means that a single SPS shall be calculated for both schools by averaging both schools' attendance and/or dropout data and using the test score data derived from the school that has at least two grade levels of testing.

A school with a grade-level configuration in which students participate in either CRT or NRT testing, but not both (e.g., a K-3, 5-6 school) must "share" with another school that has at least one grade level of the type of testing missing. Both schools shall "share" the missing grade level of test data. This shared test data must come from the grade level closest to the last grade level in the non-standard school. The non-standard school's SPS shall be calculated by using the school's own attendance, dropout, and testing data AND the test scores for just one grade from the other school.

A district must identify the school where each of its non-standard schools shall be either "paired or shared." The "paired or shared" school must be the one that receives by promotion the largest percentage of students from the non-standard school. In other words, the "paired or shared" school must be the school into which the largest percentage of students "feed." If two schools receive an identical percentage of students from a non-standard school, the district shall select the "paired or shared" school.

If a school is not paired/shared at the beginning of a cycle, it shall not be paired/shared at the end of a cycle.

Beginning with Cycle 2, requirements for the number of test units shall be the sum of the test units over a two-year period (80 CRT and 20 NRT) (not the number of test units in one year). Beginning with Cycle 2, a school's sharing/pairing status at the beginning of the cycle shall be its status at the end of the cycle.

Weegie Peabody
Executive Director

0310#020

RULE

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Validity, Reinstatement, Renewal, and Extension of Certificates (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to *Bulletin 746C Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy adds language for the new Level 1, Level 2, and Level 3 certificates; and it provides specificity to the six semester hours of coursework required for reinstatement of lapsed certificates.

**Title 28
EDUCATION**

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183 (April 1975) LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:541 (December 1975), amended LR 28:763-765 (April 2002), LR 28:765 (April 2002), LR 28:990 (May 2002), LR 29:2021 (October 2003).

* * *

Validity, Reinstatement, Renewal, and Extension of Certificates

Type C and Level 1 certificates for beginning teachers in Louisiana shall be valid for three years. Teachers who have had the required academic preparation and the necessary number of years of successful teaching experience in their properly certified field and have successfully completed the Louisiana Teacher Assistance and Assessment Program may have Type C certificates converted into Type B or Type A certificates, or may have Level 1 certificates converted into Level 2 or Level 3 certificates, with validation subject to the terms and conditions hereinafter set forth.

Type B and A certificates shall be valid for life; and Level 2 and Level 3 certificates shall be valid for five years and

renewable with 150 Continuing Learning Units (CLUs) of professional development. The period of validity is subject to the provision that the holder does not allow any period of five or more consecutive calendar years of disuse to accrue and/or the certificate is not revoked by the State Board of Elementary and Secondary Education acting in accordance with law. Type B, Type A, Level 2, and Level 3 certificates shall lapse for disuse if the holder thereof shall allow a period of five consecutive calendar years to pass in which he or she is not a regularly employed teacher for at least one semester (90 consecutive days).

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 Certification and Higher Education or a Louisiana dean of education for the first period of five consecutive years of disuse.

It is the responsibility of the parish employing authority to notify Certification and Higher Education when the employing authority desires to employ a teacher whose Type C, B, or A certificate or whose Level 1, 2, or 3 certificate has expired.

Upon recommendation of the parish superintendent (or corresponding administrative officer of a private school system) who wishes to employ such a teacher, the holder of a lapsed Type C or Level 1 certificate may have the certificate renewed once for an additional period of three years, subject to the approval of Certification and Higher Education or upon the presentation of six semester hours of credit directly related to the area(s) of certification. Such hours shall be resident, extension, or correspondence credit from a regionally accredited institution approved by Certification and Higher Education or a Louisiana dean of education. However, if the holder of a Type C or Level 1 certificate has not been employed regularly as a teacher for at least one 90-day semester during a period of five years, his certificate can be reinstated for three years only upon the presentation of six semester hours of credit directly related to area(s) of certification. The coursework may be resident, extension, or correspondence credits earned from a regionally accredited institution approved by Certification and Higher Education or a Louisiana dean of education. The six semester hours of resident, extension, or correspondence credit required to reinstate a certificate must be earned during the five-year period immediately preceding the reinstatement of the certificate. Type of approved coursework for grade levels of certification and for special education areas is as follows.

Approved Courses to Reinstate Lapsed Certificates (Six semester hours of coursework required)						
Type of Approved Coursework	Early Childhood (PK, K, PK-3)	Elementary Grades (1-4, 1-6, 1-8)	Middle Grades (4-8, 5-8)	Secondary Grades (7-12)	Special Education (1-12)	All-Level (K-12) Areas (Art, Dance, Foreign Language, H&PE, Music)
(Diagnostic & Prescriptive Reading)	X	X	X	X	X	
Reading in the Content Area	X	X	X	X	X	
Other Content in Reading	X	X	X	X	X	X
Early Numeracy Concepts of Mathematics	X	X	X		X	

Approved Courses to Reinstate Lapsed Certificates (Six semester hours of coursework required)						
Type of Approved Coursework	Early Childhood (PK, K, PK-3)	Elementary Grades (1-4, 1-6, 1-8)	Middle Grades (4-8, 5-8)	Secondary Grades (7-12)	Special Education (1-12)	All-Level (K-12) Areas (Art, Dance, Foreign Language, H&PE, Music)
Other Content in Mathematics	X	X	X		X	
Content in English/ Language Arts	X	X	X		X	
Content in Science	X	X	X		X	
Content in Social Studies	X	X	X		X	
Content Specific to Subject Area of Certification			X	X	X	X
Classroom and/ or Behavior Management	X	X	X	X	X	X
Technology in the Classroom	X	X	X	X	X	X
Teaching in an Inclusive Setting	X	X	X	X	X	X
Vocational and Transition Services for Students					X	

Notes:

1. Teachers with multiple certification areas may complete coursework specific to any of their certification areas.
2. Coursework must be reflected on a transcript from a regionally accredited institution.
3. Coursework must be gained within the five-year period immediately preceding reinstatement of the certificate.
4. Coursework cannot be a repeat of prior coursework shown on a transcript, unless the student failed or earned a "D" in the course.

Weegie Peabody
Executive Director

0310#019

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 adopted revisions to *Bulletin 1196C Louisiana Food and Nutrition Programs, Policies of Operation*. Bulletin 1196 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. This is an update of federal and state policies.

Title 28

EDUCATION

Part XLIX. Bulletin 1196C Louisiana Food and Nutrition Programs, Policies of Operation

Chapter 1. Administration

§107. Local Level

A. - A.1. ...

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 §1103)

C. ...

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), amended LR 29:2022 (October 2003).

§111. Permanent Agreement between Sponsor and Louisiana Department of Education

A. ...

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 agreement have not been fully met.

1. - 2.a. ...

3. Competitive Foods/Extra Sales

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 §741. Selling of extra items shall be in compliance with state policy (refer to §737).

4. - 7.a. ...

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 §729.)

9. - 24.a. ...

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 §729).

26. - 26.a. ...

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), amended LR 29:2022 (October 2003).

Chapter 3. Financial Management and Accounting

§313. Special Functions/Catering

A. - A.2.b. ...

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*. (For more information and requirements, refer to Chapter 7, §731 and §733.)

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), amended LR 29:2023 (October 2003).

§317. Allowable/Unallowable Program Expenses

A. - B.2.a. ...

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.

3. - 3.c. ...

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 13 for guidance on required initial equipment.)

3.e. - 28.a. ...

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), amended LR 29:2023 (October 2003).

§323. Property Management Requirements

A. - D.1.a.ii. ...

- iii. green beans, frozen, cut, 2# box; and
- iv. green beans, frozen, cut, 20# box.

b. - e. ...

2. To maintain a computerized noncosted perpetual inventory, adhere to the procedures listed below.

a. Complete a computer inventory record for each form and pack of each food item in inventory.

b. As items are received, enter the date and number of single units received into the computer record.

c. As items are issued or withdrawn from inventory, enter the date and number of single items issued or withdrawn into the computer record.

d. 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. - E.2.e. ...

3. To maintain a computerized costed perpetual inventory, adhere to the procedures listed below.

a. Complete a computer inventory record for each form and pack of each food item in inventory.

b. As items are received, enter the date and number of single units received and price per unit into the computer record.

c. As items are issued or withdrawn from inventory, enter the date and number of single items issued or withdrawn into the computer record.

d. 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.)

F. 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.

G. 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 \$1,000 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.

3. Every year a physical inventory of school food service equipment with a unit acquisition cost of \$1,000 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.

4. 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.

H. 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), amended LR 29:2023 (October 2003).

§335. Computing Average Meal Cost

A. - B.1.c. ...

d. If the school system sold extra food items, calculate the meal equivalents allowed for extra sales by dividing the total income from extra sales for the year by the meal equivalent factor. (Refer to §339, Meal Equivalent Factor.)

B.1.e. - C.1. ...

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), amended LR 29:2024 (October 2003).

§337. Establishing Meal/Snack Charges and Extra Sales Prices

A. - A.1.h. ...

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 - i.iv. ...

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), amended LR 29:2024 (October 2003).

§339. Meal Equivalent Factor

A. - B. ...

C. The meal equivalent factor is established annually and 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, divide the total income from extra sales for the year by the 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), amended LR 29:2024 (October 2003).

§341. Claim for Reimbursement

A. ...

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.

B.2. - I.5.a. ...

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), amended LR 29:2024 (October 2003).

§349. Recordkeeping for RCCIs and Boarding Schools

A. - B.10.a. ...

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 §331 for more information.)

12. - 12.a. ...

b. If a participating RCCI or boarding school has federal expenditures of less than \$300,000 in a fiscal year, it shall annually report this information to the Louisiana Department of Education, to ensure compliance with federal audit requirements.

c. Circular A-133 Subpart A §105 defines recipient or sub-recipient. The main criteria for determining if an RCCI or boarding school is a recipient or a sub-recipient of federal funds is compliance with federal program requirements as a criteria of receiving and expending the federal funds.

13. - 14.a. ...

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), amended LR 28:1737 (August 2002), LR 29:2024 (October 2003).

Chapter 5. Free and Reduced Price Meals

§501. Purpose

A. School Food Authorities (SFA) participating in the National School Lunch and School Breakfast Programs and utilizing 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), amended LR 29:2025 (October 2003).

§503. Policy Statement

A. - A.1.a. ...

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 meal application form with instructions (single or multi-child application);

d. the letter to households regarding application for benefits;

e. - f. ...

g. the collection procedure and accountability statement;

h. ...

i. the notice of selection for verification and other forms of supporting documentation to assist in verification which include the following:

i. - v. ...

vi. Repealed.

1.j. - 2.k.i. ...

ii. If no other income is listed, a multi-child application that lists a valid food stamp/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).

A.2.k.iii. - B.2.g. ...

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), amended LR 29:2025 (October 2003).

§505. Application Process

A. - B.3.a. ...

C. Application Approval Deadline

1. 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. - D.3.f.i. ...

ii. SFAs should review eligibility determinations made under these crisis procedures every 30 days to evaluate the household's circumstances.

D.3.g. - Q.2. ...

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), amended LR 29:2025 (October 2003).

§513. Verification Process for School Meals

A. - D.1. ...

a. Focused Sampling. The focused sampling method requires the verification of the lesser of one 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 0.005 percent or 500 of approved categorically eligible applications with food stamp/FITAP case numbers reported.

D.1.b. - F.2.b. ...

3. Income Eligible Sample

a. SFAs should use the following procedures to determine sample sizes for income eligible applicants.

i. 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 0.01.

ii. 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.

(a). 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.

(b). 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.

(c). 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

(d). Zero income applications may be verified for focused sampling in addition to the required number to be verified.

4. Categorically Eligible Sample

a. SFAs should use the following procedures to determine sample sizes for categorically eligible applicants.

i. They should determine the number required to fill the sample size by multiplying the total number of the categorically eligible applications by 0.005. The sample size is the lesser of 500 or 0.005 percent of all applications approved on the basis of food stamp or FITAP case numbers.

ii. 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.

G Random Sample Selection Process

1. The random sample size is three 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 0.03. 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.

H. 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), amended LR 29:2025 (October 2003).

§517. Confirmation of Eligibility Based on Income Eligibility

A. - A.1. ...

2. The household must submit the social security numbers of all adult household members and written evidence of current income. (Refer to §523, Appendix B.) 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.

A.3. - C.1. ...

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), amended LR 29:2026 (October 2003).

§521. Completion of Verification

A. - B.1.c. ...

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 §521.C, Notification of Adverse Action, below.

B.2. - G.3. ...

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), amended LR 29:2026 (October 2003).

Chapter 7. Meal Planning and Service

§701. General

A. ...

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 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 27:2135 (December 2001), amended LR 29:2026 (October 2003).

§703. Nutrient Standard

A. - B.8. ...

C. Required and Optional Nutrient Standards are included in §755, Appendices.

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), amended LR 29:2027 (October 2003).

§709. Required Documents for Meal Planning Options

A. - A.2.b.xiv. ...

c. Additional nutrients or components may be given and can be included in the nutrient analysis. A sample is in the Supplement.

2.d. - 3.b.iv. ...

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.E.

3.d. - 4.b. ...

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 §755.F., and the sample form in §755.G.)

5. ...

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), amended LR 29:2027 (October 2003).

§711. Menu Planning Options

A. - C. ...

D. Repealed.

E. - E.1.e. ...

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, §755. H. and I. 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). - (a).(i). ...

(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, §755.H. and I, for quantity requirements by age/grade groups.)

(a).(iii). - (b).(iii). ...

(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 when neither is 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). - (c).(iii). ...

(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 §755.J. 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.E.1.e.(i).(a).(viii).[1], 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 §755.J, Grains/Breads for Food Based Menu Planning chart.)

[1]. - [2]. ...

[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.J.

(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 than 3 grams of fat per 8 fluid ounce serving.

e.i.(d).(ii). - f.ii. ...

(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 §755.H. 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). - (vi). ...

(b). Breakfast

(i). Students must be offered all four-food items as listed in the Traditional School Breakfast Pattern chart in §755.I. 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.

1.f.ii.(b).(ii). - 2.d. ...

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.K and . 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). - (a).(i). ...

(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.K and L: Enhanced School Lunch/Breakfast Pattern Charts.)

(a).(iii). - (c).(iii). ...

(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.J 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.E.1.e.i(a)(viii.)[1]:Meat/Meat Alternate, Enriched Macaroni with Fortified Protein.)

e.i.(c).(vi). - f.ii.(b).(vi). ...

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.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.)

2.h. - 3.f.i.(c).(iii). ...

(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. (A sample is in the Supplement.) 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.

3.g. - 4. ...

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.E.3, Nutrient Standard Menu Planning.)

5. - 5.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2137 (December 2001), amended LR 29:2027 (October 2003).

§713. Infant Meal Patterns

A. Infants under one year of age shall be served an infant breakfast and/or lunch as specified in §755.M. 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. - B.3.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 27:2148 (December 2001), amended LR 29:2028 (October 2003).

§727. Meal Substitutions for Medical or Dietary Reasons

A. ...

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. (A sample is in the supplement.) 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. - C.1.d.iv. ...

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.

1.f. - 3.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2149 (December 2001, amended LR 29:2028 (October 2003).

§729. Nonstudent Meals

A. - A.2.a. ...

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. (A sample is in the supplement.) Copies of new and renewed contracts must be submitted to the state agency. Contracts will become part of the SFAs permanent agreement with the state agency. (Refer to §337.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 the Board of Elementary and Secondary Education in LR 27:2150 (December 2001), amended LR 29:2029 (October 2003).

§735. Second Servings

A. ...

B. Students who receive a complete meal in the form of second servings are required to pay the at cost price of the meal. A complete meal is defined as the number of meal components that constitutes a reimbursable meal. Second servings cannot be claimed for reimbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2151 (December 2001), amended LR 29:2029 (October 2003).

§737. Extra Sales

A. ...

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 §337.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 the Board of Elementary and Secondary Education in LR 27:2151 (December 2001), amended LR 29:2029 (October 2003).

§741. Competitive Foods

A. - B.4. ...

a. 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.

5. The SBESE recommends that all schools provide a minimum of 30 minutes per lunch period.

6. 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.

7. 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.

8. 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 the Board of Elementary and Secondary Education in LR 27:2151 (December 2001), amended LR 29:2029 (October 2003).

§747. Donations of Leftover Food/Food Recovery

Activities

A. - A.4.h. ...

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2152 (December 2001), amended LR 29:2029 (October 2003).

§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.I, Disposition of Equipment for more 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 27:2153 (December 2001), amended LR 29:2029 (October 2003).

§755. Appendices

- A. - E. ...
- F. Guidance for Reviewing Product Formulation Statements
- G. - M. ...
- N. Repealed.
- Appendices A. - G ...

Appendix H. Traditional School Lunch Meal Patterns					
Traditional Food-Based Menu Planning Approach-Meal Pattern For Lunches					
Food Components And Food Items	Minimum Quantities				Recommended Quantities
	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 1 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 1/2 1/4 cup 2 tablespoons 4 ounces or 1/2 cup 1/2 ounce = 50%	1 1/2 ounces 1 1/2 ounces 1 1/2 ounces 3/4 3/8 cup 3 tablespoons 6 ounces or 3/4 cup 3/4 ounce = 50%	1 1/2 ounces 1 1/2 ounces 1 1/2 ounces 3/4 3/8 cup 3 tablespoons 6 ounces or 3/4 cup 3/4 ounce = 50%	2 ounces 2 ounces 2 ounces 1 1/2 cup 4 tablespoons 8 ounces or 1 cup 1 ounce = 50%	3 ounces 3 ounces 3 ounces 1 1/2 3/4 cup 6 tablespoons 12 ounces or 1 1/2 cups 1 1/2 ounce = 50%
Vegetable or Fruit: 2 or more servings of vegetables, fruits or both	1/2 cup	1/2 cup	1/2 cup	3/4 cup	3/4 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 1/2 cup of cooked rice, macaroni, noodles, other pasta products or cereal grains	5 servings per week 2 Cminimum of 1/2 serving per day	8 servings per week 2 Cminimum of 1 serving per day	8 servings per week 2 Cminimum of 1 serving per day	8 servings per week 2 Cminimum of 1 serving per day	10 servings per week 2 Cminimum of 1 serving per day

¹ Must meet the requirements in appendix A of CFR 210.

² For the purposes of this table, a week equals five days.

Appendix I. Traditional School Breakfast Meal Pattern			
Traditional Food-Based Menu Planning Approach-Meal Pattern For Breakfasts			
Food Components and Food Items	Ages 1-2	Ages 3, 4, and 5	Grades K-12
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	1/4cup	1/2 cup	1/2 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 1 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) 2 Yogurt, plain or flavored, unsweetened or sweetened	1/2 slice 1/2 serving 1/4 cup or 1/3 ounce 1/2 ounce 1/2 ounce 1/2 ounce 1/2 2 tablespoons 1 tablespoon 1/2 ounce 2 ounces or 1/4 cup	1/2 slice 1/2 serving 1/3 cup or 1/2 ounce 1/2 ounce 1/2 ounce 1/2 ounce 1/2 2 tablespoons 1 tablespoon 1/2 ounce 2 ounces or 1/4 cup	1 slice 1 serving 3/4 cup or 1 ounce 1 ounce 1 ounce 1 ounce 1/2 4 tablespoons 2 tablespoons 1 ounce 4 ounces or 1/2 cup

¹ Must meet the requirements in appendix A of CFR 220.

² No more than 1 ounce of nuts and/or seeds may be served in any one breakfast.

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			Option For
	Ages 1-2	Preschool	Grades K-12	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	1/4 cup	1/2 cup	1/2 cup	1/2 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 1 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) 2 Yogurt, plain or flavored, unsweetened or sweetened	1/2 slice 1/2 serving 1/4 cup or 1/3 ounce 1/2 ounce 1/2 ounce 1/2 ounce 1/2 2 tablespoons 1 tablespoon 1/2 ounce 2 ounces or 1/4 cup	1/2 slice 1/2 serving 1/3 cup or 1/2 ounce 1/2 ounce 1/2 ounce 1/2 ounce 1/2 2 tablespoons 1 tablespoon 1/2 ounce 2 ounces or 1/4 cup	1 slice 1 serving 3/4 cup or 1 ounce 1 ounce 1 ounce 1 ounce 1/2 4 tablesp oons 2 tablespoons 1 ounce 4 ounces or 1/2 cup	1 slice 1 serving 3/4 cup or 1 ounce3 1 ounce 1 ounce 1 ounce 1/2 4 tablespoons 2 tablespoons 1 ounce 4 ounces or 1/2 cup

¹ Must meet the requirements in appendix A of CFR 220.

² No more than 1 ounce of nuts and/or seeds may be served in any one breakfast

³ Plus an additional serving of one of the Grains/Breads on the above chart.

Appendix M. Infant Breakfast Pattern			
	0-3 Months	4-7 Months	8-11 Months
Iron Fortified Formula ¹ or Breast Milk ^{2,3}	4-6 Fluid Ounces	4-8 Fluid Ounces	6-8 Fluid Ounces and
Iron Fortified Dry Infant Cereal ^{1,4}		0-3 Tablespoons (Optional)	2-4 Tablespoons and
Fruit and/or Vegetable ⁴			1-4 Tablespoons

Infant Lunch Pattern			
	0-3 Months	4-7 Months	8-11 Months
Iron Fortified Formula ¹ or Breast Milk ^{2,3}	4-6 Fluid Ounces	4-8 Fluid Ounces	6-8 Fluid Ounces and
Iron Fortified Dry Infant Cereal ^{1,4}		0-3 Tablespoons (Optional)	2-4 Tablespoons and/or 1-4 Tablespoons Meat/Alternate* and
Fruit And/Or Vegetable ⁴		0-3 Tablespoons (Optional)	1-4 Tablespoons

¹ Infant formula and dry infant cereal shall be iron-fortified.

² It is recommended that breast milk be served in place of formula for infants from birth through 11 months.

³ 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.

⁴ A serving of this component is required only when the infant is developmentally ready to accept it.

* 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. Repealed.

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), amended LR 29:2030 (October 2003).

Chapter 9. Afterschool Care Program

§901. General

A. ...

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 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. ...

D. Repealed.

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), amended LR 29:2031 (October 2003).

§911. Content of Meals

A. ...

B. Participants must be given two different components 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. ...

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), amended LR 29:2031 (October 2003).

Chapter 11. Personnel

§1115. Description of Louisiana School Food Service Training Program

A. ...

B. Phase I is designed for all food service technicians/employees. Phase I consists of 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 servicemanagers 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 areas of personnel, public relations, safety, sanitation, nutrition, food production, and property management.

D. - D.3. ...

E. Phase III is a training course that includes, but is not limited to, policies and history of child nutrition programs, forms, food distribution. 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), amended LR 29:2031 (October 2003).

§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, 1/2 all breakfasts, 1/5 of all snacks, extra sales meal equivalents) produced and served per hour of labor used. (Refer to Chapter 3, §339 and §335 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.

$$\text{Number of Meal Equivalents (Output)} \div \text{Productivity Rate or Meals per Number of Labor Hours (Input) Labor Hour (MPLH)}$$

2. calculate the MPLH for each site; an example is given below.

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/day = 14 Hours Over/Under: +1

Meal Equivalents:
 1 lunch = 1 meal equivalent
 2 breakfasts = 1 meal equivalent
 5 snacks = 1 meal equivalent

Extra sales income totaling the average cost of a meal from the previous school year = 1 meal equivalent

* Extra sales income from previous year ÷ meal equivalent factor/number of serving days = \$3,066.50 ÷ 2.26 ÷ 180 = 8

3. ...

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), amended LR 29:2032 (October 2003).

Chapter 15. Procurement

§1501. Purchasing Guidelines

A. ...

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.

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 §1303.)

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), amended LR 29:2032 (October 2003).

§1503. Procurement Systems

A. Competitive Sealed Bids (Formal)

1. All purchases of materials and supplies exceeding the aggregate sum of \$15,000 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 \$15,000, 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 \$15,000 must be documented for review and audit purposes.

3. - 6.a. ...

b. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions (All contracts > \$100,000 See §1517);

c. Certification Regarding Lobbying (All contracts > \$100,000 See §1517);

A.6.d. - B.1. ...

a. the aggregate amount does not exceed \$15,000.00; and/or

b. ...

2. Purchases of materials and supplies for which the aggregate amount does not exceed \$15,000 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 \$15,000. 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.

3.a. - 7.

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), amended LR 29:2032 (October 2003).

§1509. Other Procurement Methods

A. - D.a.

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 \$15,000. Documentation of contacts must be maintained. Competitive sealed bids (formal advertising) must be used when the aggregate amount is over \$15,000. If the aggregate amount of a purchase exceeds \$15,000, 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.

E.2 - G.1.

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), amended LR 29:2033 (October 2003).

§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 \$15,000 shall be advertised and awarded to the lowest responsible bidder. Purchases less than \$15,000 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), amended LR 29:2033 (October 2003).

§1533. Instructions to Vendor

A. - B.1. ...

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.

C. - M.1. ...

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), amended LR 29:2033 (October 2003).

Chapter 17. Commodities

§1709. Care and Storage of Commodities

A. - A.1.d.i. ...

ii. and properly dispose of the out of condition food;

iii. 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. - 2.a. ...

b. 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. Perpetual inventories must be reconciled with physical inventory monthly.

d. 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. - 3.a.-b. ...

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. Documentation is required each time the acceptable range is exceeded.

4.b. - 5.a. ...

6. Repealed.

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), amended LR 29:2034 (October 2003).

Chapter 19. Sanitation

§1911. Cooking

A. - E. ...

F. Cutting boards, knives, and other food contact surfaces shall be washed, rinsed, and sanitized after each contact with a potentially hazardous food. It is recommended that cutting boards of different colors be used for different foods. For example, red for meat, blue for poultry, and green for fresh vegetables.

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), amended LR 29:2034 (October 2003).

Chapter 21. Civil Rights C Handling Complaints

§2101. Responsibilities of the SFA

A. - A.1.b. ...

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 the news release, letters to parents, the income scale, and the application form.

A.3. - 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 27:2197 (December 2001), amended LR 29:2034 (October 2003).

Chapter 25. Summer Food Service Program

§2523. Audit Requirements for the Summer Food Service Program

A. Refer to §333 for specific audit requirements that also apply to approved, participating sponsoring institutions.

B. Reporting to the Louisiana Department of Education. If a participating sponsoring institution's federal expenditures are less than \$300,000 in a fiscal year, that sponsoring institution shall annually report this information to the Louisiana Department of Education, to ensure compliance with federal audit requirements.

1. Circular A-133 Subpart A §105 defines recipient or sub-recipient. The main criteria for determining if a sponsoring institution is a recipient or a sub-recipient of federal funds is compliance with federal program

requirements as a criteria of receiving and expending the federal funds.

C. While a sponsoring institution that does not meet the annual federal expenditure threshold of \$300,000 is not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any federal, state, or local government agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1737 (August 2002), amended LR 29:2034 (October 2003).

Chapter 29. Child and Adult Care Food Program

§2911. Audit Requirements for the Child and Adult Care Food Program

A. Refer to §333 for specific audit requirements that also apply to approved, participating sponsoring institutions.

B. Reporting to the Louisiana Department of Education. If a participating sponsoring institution's federal expenditures are less than \$300,000 in a fiscal year, that sponsoring institution shall annually report this information to the Louisiana Department of Education, to ensure compliance with federal audit requirements.

1. Circular A-133 Subpart A §105 defines recipient or sub-recipient. The main criteria for determining if a sponsoring institution is a recipient or a sub-recipient of federal funds is compliance with federal program requirements as a criteria of receiving and expending the federal funds.

C. While a sponsoring institution that does not meet the annual federal expenditure threshold of \$300,000 is not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any federal, state, or local government agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1737 (August 2002), amended LR 29:2034 (October 2003).

Chapter 31. Disaster Feeding

§3115. Procedures to Follow after the Shelter Class

A. Complete and submit the commodity forms to Food Distribution Division within 24 hours after site closure.

B. - E. ...

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), amended LR 29:2034 (October 2003).

§3119. Food Salvage at School Sites

A. ...

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 chlorine solution for 90 seconds. Mark the can with its content name and expiration date.

C. ...

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), amended LR 29:2034 (October 2003).

§3121. Power Outages

A. Refer to Chapter 19, 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), amended LR 29:2035 (October 2003).

Chapter 33. Financial Management and Accounting for Child and Adult Care Food Program Family Day Care Homes (FDCH)

§3313. Audit/Review

A. - A. 1. ...

2. Reporting to the Louisiana Department of Education. If a participating sponsor's federal expenditures are less than \$300,000 in a fiscal year, that sponsor shall annually report this information to the Louisiana Department of Education, to ensure compliance with federal audit requirements.

a. Circular A-133 Subpart A §105 defines recipient or sub-recipient. The main criteria for determining if a sponsor is a recipient or a sub-recipient of federal funds is compliance with federal program requirements as a criteria of receiving and expending the federal funds.

b. While a sponsoring institution that does not meet the annual federal expenditure threshold of \$300,000 is not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any federal, state, or local government agency.

B. - D. ...

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), amended LR 28:1738 (August 2002), LR 29:2035 (October 2003).

Chapter 34. Louisiana Child Nutrition Programs Appeals Procedures

§3401. Purpose

A. The rules and regulations contained in this Subpart shall govern and control procedures used by the Louisiana Department of Education, Division of Nutrition Assistance (hereafter referred to as state agency) for taking action against a school food authority or a child and adult care food program sponsor (hereafter referred to as institution).

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1738 (August 2002), amended LR 29:2035 (October 2003).

§3403. Service

A. The service of the notice of proposed action, request for appeal and decision shall be made personally or by official U.S. postal certified mail, return receipt requested.

B. Service upon an institution's authorized representative, officer, or agent constitutes service upon that institution.

C. Service by certified mail is complete upon the date of receipt. An official U.S. postal receipt from the certified mailing constitutes prima facie evidence of service. Any other orders, notices, or documents served or exchanged pursuant to these rules shall be done through personal

service, the U.S. mail, all postage prepaid, facsimile or email. Refer to the glossary for specific definition of notices.

1. For purposes of determining whether services have been timely made, if the last day of any deadline established by these rules falls on a weekend or a state holiday, service is considered timely made if received on or before the close of business of the next business day. If the deadline for service falls on a business day, service must be made before close of business that day.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education, LR 28:1738 (August 2002), amended LR 29:2035 (October 2003).

§3405. Notice of Proposed Action

A. The state agency shall notify the institution, in writing, of the actions being taken through a "Notice of Proposed Action." This notice shall contain the following information:

1. a list of specific violations of program rules and regulations alleged to have been committed by the institution;
2. the specific amount of the fiscal sanction assessed against the institution, if any;
3. a statement specifying what action the institution must take to correct the violation(s) to avoid further proceedings;
4. a statement of the time lines related to the proposed action;
5. a statement as to the consequences for failing to timely take corrective actions, make payments, or make a request for appeal;
6. a statement of the institution's right to appeal the proposed action;
7. the name, address and telephone number of the hearing officer.

B. A notice of proposed action suspending or terminating an institution's Child and Adult Care Food Program (CACFP) participation shall be sent to the institution's executive director, the chairman of the board of directors, identified responsible principals and responsible individuals and shall also include further suspension proceedings as required in the CACFP regulations.

C. If the proposed suspension is due to the institution's submission of a false or fraudulent claim for reimbursement, the notice of proposed action shall also state:

1. that the effective date of suspension will be 10 days after the institution's receipt of the suspension notice;
2. the institution's written request for a suspension review must be received by the hearing officer within 10 days of the institution's receipt of the notice of proposed action along with written documentation opposing the proposed suspension.

D. The institution must also send a copy of the request for a suspension review to the state agency.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), amended LR 29:2035 (October 2003).

§3407. Request for Appeal

A. Institutions wishing to appeal proposed actions (except suspension of CACFP participation) shall serve a

written request for appeal upon the state agency not later than 15 calendar days after the date of receipt of the notice of proposed action.

B. The request for appeal shall contain the following information:

1. a listing of what specific violations set forth in the notice of proposed action are being appealed together with a short and plain statement of each contested issue of fact or law concerning each violation;

2. a statement specifying which of the following two forms of appeal an institution seeks:

a. a review of the records with the right to submit additional written information to dispute the proposed action; or

b. a hearing. appeals will be conducted by a fair and impartial hearing officer. The institution may be represented by legal counsel or another designated individual;

c. a statement as to the relief or remedy the institution seeks from the appeal.

C. The state agency must acknowledge receipt of the request for appeal within 10 calendar days of its receipt of the request.

D. Institutions wishing to have a review of the state agency's proposed suspension of their CACFP participation must submit a written request for a review directly to the hearing officer at the same time.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), amended LR 29:2035 (October 2003).

§3409. Appeals on the Record; Submissions

A. Institutions and responsible principals and responsible individuals opting to appeal proposed actions by a review of the record shall submit all documents and information, in written form, that they wish to have considered in the appeal to the hearing officer not later than 30 calendar days after receipt of the notice of proposed action.

B. The state agency shall submit all documents and written information it wishes to have considered to the hearing officer not later than 30 calendar days after the institution's receipt of the notice of proposed action.

C. Any information on which the state agency's action was based must be available to the institution and the responsible principals and responsible individuals for inspection from the date of the state agency's receipt of the request for appeal.

D. The hearing officer must conduct a hearing in addition to, or in lieu of, a review of the record only if the institution or the responsible principals and responsible individuals request a hearing in the written request for appeal.

E. The hearing officer must immediately notify the state agency that an institution has contested the proposed suspension.

1. The state agency must immediately submit to the hearing officer a copy of the notice of proposed action suspending the institution's CACFP participation and all supporting documents.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), amended LR 29:2036 (October 2003).

§3410. Notice and Time of Hearing

A. If a hearing (not suspension review) is requested in writing, the hearing officer shall schedule the hearing date to allow rendering of the decision within 60 days from the date of receipt of the request for appeal by the state agency. The hearing officer shall notify the institution and the state agency in writing of the time, date, and place of the hearing, at least 10 calendar days in advance of the date of the hearing.

B. A representative of the state agency must be allowed to attend the hearing to respond to the testimony of the institution and the responsible principals and responsible individuals and to answer questions posed by the hearing officer.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), repromulgated LR 28:1950 (September 2002), amended LR 29:2036 (October 2003).

§3411. Effect of Appeal upon Agency Actions

A. The notice of proposed action issued to the institution shall remain in effect until the decision is rendered in the appeal.

B. The state agency must assess interest on overpayments in the notice of proposed action, through the appeal period, unless the hearing officer's decision overturns the state agency's action establishing the overpayment.

C. During the appeal period, the state agency must continue its efforts to recover any advances that are in excess of the claim for reimbursement for the applicable period.

D. Participating institutions may continue to operate and receive reimbursement for which they are eligible under the program during an appeal of a proposed action, unless the state agency's action suspends the participation of an institution. Federal CACFP regulations specify reasons for state agency suspension such as an imminent threat to the health or welfare of the public caused by the institution or to the participants at an institution, or the institution has knowingly submitted a false or fraudulent claim for reimbursement. The basis for the suspension must be stated in the notice of proposed action.

1. The state agency is prohibited from paying any claims for reimbursement received from a suspended institution unless the hearing officer's decision overturns the state agency's action.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), amended LR 29:2036 (October 2003).

§3413. Default

A. The hearing officer may declare any party in default who, without good cause shown:

1. fails to file brief or memorandums or exchange information and evidence as may be required by the hearing officer or these rules;

2. fails to appear at or participate in any pre-hearing conference;

3. fails to appear at or to participate in the hearing.

B. If the institution's representative, or the responsible principals or responsible individuals or their representative fail to appear at a scheduled hearing, they waive the right to a personal appearance before the hearing officer, unless the hearing officer agrees to reschedule the hearing.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), amended LR 29:2036 (October 2003).

§3419. Decision, Judicial Review, Records

A. The hearing officer shall render a decision which shall include findings of fact, conclusions, and a statement as to the reasons for the decision. The decision (except for suspension reviews) shall be rendered within 60 days of the receipt of the request for appeal by the state agency. The decision on the state agency's proposed participation suspension shall be rendered within ten days of the hearing officer's receipt of the institution's documentation opposing the proposed suspension. The decision shall be served to the institution and the state agency by the hearing officer and shall constitute the final state agency action for purposes of judicial or other review. The decision of the hearing officer can be appealed as provided by law.

B. The appeal record, where the institution chooses to submit written information to dispute the state agency action taken against it, shall consist of that written information together with such written information as the state agency chooses to likewise submit to support its notice of proposed action and the decision thereon.

C. The appeal record of a hearing shall consist of the evidence submitted at the hearing, a statement of any matter officially noticed, offers of proof, objections and rulings thereon, a recording of the hearing procedures, and the hearing officer's decision. A verbatim transcript of the recorded proceedings shall not be accomplished unless requested by one of the parties, at its cost, or in the event of a judicial appeal.

D. The hearing officer shall be the custodian of the records. The appeal record shall be maintained for a period of not less than three years from the date the decision is mailed to the institution or the date of the submission of the final claim for reimbursement of the action involving the appeal or resolving of the action, whichever comes later.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1740 (August 2002), amended LR 29:2037 (October 2003).

Chapter 35. Glossary

§3501. Definitions/Abbreviations

Accrual Basis Accounting that 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 a child for whom a household has accepted legal responsibility and who is considered to be a member of the household.

Allowable Costs authorized expenditures, both operating and administrative, that are necessary and reasonable for

proper and efficient administration of the child nutrition program.

Competitive Sealed Bids the procurement method, commonly called formal bid procedure, required by federal regulations whenever the aggregate purchase amount exceeds \$15,000. Purchase by competitive sealed bids requires:

1. a public advertisement of the invitation to bid;
 2. bid solicitations from an adequate number of known suppliers;
 3. a clear description of the items or services needed;
- and
4. the public opening of bids.

Formal Bid a 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 \$15,000.

Institution a public or private (nonprofit, proprietary Title XIX, proprietary Title XX, or other as allowed by the United States Department of Agriculture) organization that holds an approved agreement with the state agency to administer a child nutrition program(s) in accordance with all applicable federal and state regulations.

Noncompetitive Negotiation a 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 \$15,000, state agency authorization must be secured.

Notice a letter sent by certified mail, return receipt (or the equivalent private delivery service), by facsimile, state agency or the United States Department of Agriculture, Food and Nutrition Service with regard to an institution's Program reimbursement or participation. Notice also means a letter sent by certified mail, return receipt (or the equivalent private delivery service), by facsimile, or by email, that describes an action proposed or taken by a sponsoring organization with regard to a day care home's participation. The notice must specify the action being proposed or taken and the basis for the action, and is considered to be received by the institution, responsible principal or responsible individual, or day care home five days after being sent to the addressee's last known mailing address, facsimile number, or email address.

Responsible Principal or Responsible Individual

1. a principal, whether compensated or uncompensated, who the state agency or the United States Department of Agriculture, Food and Nutrition Service (FNS) determines to be responsible for an institution's serious deficiency;
2. any other individual employed by, or under contract with, an institution or sponsored center, who the state agency or FNS determines to be responsible for an institution's serious deficiency; or

3. an uncompensated individual who the state agency or FNS determines to be responsible for an institution's serious deficiency.

*Small Purchase Procedure*Ca type of procurement method that may be utilized whenever:

1. the aggregate purchase amount of food does not exceed \$15,000 (exception: milk and milk products);
2. the purchases are for highly perishable materials (for example, fresh produce); or
3. the purchase is for materials, equipment and/or supplies under \$15,000. Equipment and supplies costing less than \$15,000, must have no fewer than three telephone, facsimile or written quotations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(5); R.S. 17:10; R.S. 17:82; R.S. 17:191-1999; R.S. 1792.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2220 (December 2001), amended LR: 29:2037 (October 2003).

5. Will the proposed Rule effect the behavior and personal responsibility of children? No

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes

Interested persons may submit comments until 4:30 p.m., August 9, 2003, 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

0310#018

RULE

**Tuition Trust Authority
Office of Student Financial Assistance**

Student Tuition and Revenue Trust
(START Saving) Program
(LAC 28:VI.315)

The Louisiana Tuition Trust Authority (LATTA) has amended Rules of the Student Tuition and Revenue Trust (START Savings) Program (R.S. 3091-3099.2).

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

**Title 28
EDUCATION**

**Part VI. Student Financial AssistanceC Higher
Education Savings**

**Chapter 3. Education Savings Account
Subchapter A. Student Tuition Trust Authority**

§315. Miscellaneous Provisions

A. - B.6. ...

7. For the year ending December 31, 2002, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.82 percent.

8. For the year ending December 31, 2002, the Earnings Enhancements Fund earned an interest rate of 5.91 percent.

C. - R. ...

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

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

George Badge Eldredge
General Counsel

0310#044

RULE

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

Definition of Building Enclosure
(LAC 33:III.2156)(AQ232)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.2156 (Log #AQ232).

LAC 33:III.Chapter 21, Subchapter N, provides capture efficiency test procedures for temporary or permanent enclosures. The definition of building enclosure (BE), as used in these regulations, is being amended to correct the federal reference cited in the definition. The basis and rationale for this Rule are to clarify the federal citation in the definition of building enclosure (BE), as used in the regulation.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

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

**Chapter 21. Control of Emission of Organic
Compounds**

**Subchapter N. Method 43C Capture Efficiency Test
Procedures**

§2156. Definitions

A. For purposes of this regulation, the following definitions and abbreviations apply.

*BEC*a building or room enclosure that contains a process that emits VOC. If a BE is to serve as a PTE or TTE, the appropriate requirements given in 40 CFR, Part 51, Appendix M, Method 204 must be met.

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 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1679 (December 1997),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1223 (August 2001), LR 29:2038 (October 2003).

James H. Brent, Ph.D.
Assistant Secretary

0310#049

RULE

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

**Public Notification of Contamination
(LAC 33:I.101, 103, 105, 107, and 109)(OS042)**

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 adopted the Office of the Secretary regulations, LAC 33:I.101, 103, 105, 107, and 109 (Log #OS042).

This Rule will establish procedures for notifying persons who are likely to be adversely affected by a release. The Rule applies to releases that exceed the applicable federal or state health and safety standard and that pose a risk of adverse human health effects. This action is required to comply with Executive Order No. MJF 2001-46, which required that all agencies affected by the Order adopt Rules to notify persons who may be exposed to environmental contamination. The basis and rationale for this Rule are to comply with the Governor's Executive Order.

This Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

TITLE 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 1. Public Notification of Contamination

§101. Purpose

A. The purpose of this Chapter is to establish procedures for notifying those members of the public whom the department determines are likely to be adversely affected by a release that poses a significant risk of adverse health effects. This Chapter is in addition to any other requirements to provide notice, and nothing in this Chapter shall be construed to relieve the department or any other person from any other requirement set forth in *Louisiana Administrative Code*, Title 33. Furthermore, nothing in this Chapter shall prevent the responsible party, or the department, from providing additional means for public information and participation consistent with the provisions of this Chapter or any other Chapter of the *Louisiana Administrative Code*, Title 33.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:2039 (October 2003).

§103. Applicability

A. This Chapter applies to releases that exceed the applicable federal or state health and safety standard and pose a significant risk of adverse human health effects.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:2039 (October 2003).

§105. Effective Date

A. These regulations shall become effective on October 20, 2003. These regulations are only applicable to releases that occur on or after October 20, 2003.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:2039 (October 2003).

§107. Definitions

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

Applicable Federal or State Health and Safety Standard Cthose health and/or safety standards promulgated under federal or state health or safety laws or other universally accepted health or safety standards that the department, based on its knowledge and expertise, reasonably determines are applicable to a particular release and release site. Examples of *applicable federal or state health and safety standards* include, but are not limited to:

1. USEPA maximum contaminant level (MCL) in a drinking water well or aquifer. MCLs are not applicable for non-potable groundwater or surface water;
2. Louisiana primary ambient air quality standards (LAC 33:III.709); and
3. Agency for Toxic Substances and Disease Registry (ATSDR) minimal risk levels (MRLs) for air.

Corrective Action Cactivities conducted to protect human health and the environment.

Department Cthe Department of Environmental Quality.

Off-Site Careas beyond the property boundary of the release site.

Person Cany individual, municipality, public or private corporation, partnership, firm, the State of Louisiana, political subdivisions of the State of Louisiana, the United States government, and any agent or subdivision thereof or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, commissions, and interstate bodies.

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

Release Site Carea within the property boundary of the site where the release has occurred.

Responsible Party Cany person required by law or regulation to undertake corrective action at a site.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:2039 (October 2003).

§109. Notification Requirements

A. The department shall provide notification to the public for sites within the department's regulatory jurisdiction, as reasonably determined by the department to be appropriate in accordance with the considerations identified in this Chapter.

B. The department shall issue notice of a release that poses a significant risk of adverse health effects to persons whom the department reasonably determines are likely to be adversely affected by the release.

C. The department may prioritize sites for provision of notice, as appropriate, according to the factors identified in this Section, although notice should in all events be given as soon as reasonably practicable.

D. The following chart provides the content and time frame for providing notification.

	Public Notice No. 1	Public Notice No. 2
Triggering Event	When the department becomes aware of information and determines that a release is likely to have off-site impacts that exceed the applicable federal or state health and safety standard and pose a significant risk of adverse health effects	When the department confirms off-site impact that exceeds the applicable federal or state health and safety standard and the department determines that the off-site impact poses a significant risk of adverse health effects
When to Provide Public Notice	When an emergency or exigent circumstance exists, notice shall be given as soon as practicable under the circumstances by using any reasonable means or, otherwise, within 30 days of the triggering event.	When an emergency or exigent circumstance exists, notice shall be given as soon as practicable under the circumstances by using any reasonable means or, otherwise, within 30 days of the triggering event.
Contents of Public Notice	1. Physical address of the release site. 2. Description of the contaminant. 3. Corrective action efforts. 4. Name, phone number, and address of contact person for both the responsible party and the department. 5. Other information the department determines is necessary to protect human health and the environment.	1. Physical address of the release site. 2. Description of the contaminant. 3. Corrective action efforts. 4. Any potential adverse health effects. 5. Name, phone number, and address of contact person for both the responsible party and the department. 6. Other information the department determines is necessary to protect human health and the environment.

E. Procedure for Providing Notice to the Public

1. The public notice required by this Chapter must be:
 - a. communicated in plain language;
 - b. printed and formatted in a manner that promotes the purpose of the notice when the notice is printed or posted;
 - c. free of language that nullifies the purpose of the notice;
 - d. displayed in a conspicuous way when printed or posted; and
 - e. sized 3 inches x 5 inches, at a minimum, in newspapers, parish journals, etc., when published in such publications.

2. The public notice shall be provided by means reasonably calculated to reach those members of the public directly affected by the release, as determined by the department, and may include, but not be limited to:

- a. public notice in local newspapers;
- b. block advertisements;
- c. public service announcements;
- d. direct mailings;
- e. personal contacts;
- f. press releases;
- g. press conferences; and
- h. posting on the department's website.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:2040 (October 2003).

James H. Brent, Ph.D.
Assistant Secretary

0310#050

RULE

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

Removal of Interim Fee Amounts for FY02-03 (LAC 33:I.1409, 4707; III.223; V.5111, 5119, 5120, 5123, 5125, 5135, 5137, 5139, 5141, 5143, 5145; VII.525, 527, 529; IX.1309, 1507; XI.307, 1305; and XV.579 and Chapter 25)(OS049)

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 fee regulations, LAC 33:I.1409, 4707; III.223; V.5111, 5119, 5120, 5123, 5125, 5135, 5137, 5139, 5141, 5143, 5145; VII.525, 527, 529; IX.1309, 1507; XI.307, 1305; and XV.579 and Chapter 25, Appendix A (Log #OS049).

No fee changes are being made in this Rule. It is merely a housekeeping measure to remove obsolete language. The Rule will remove from the regulations the fee amounts that were effective for July 1, 2002 - June 30, 2003. The remaining fee amounts are the fees that are effective beginning July 1, 2003. Act 134 of the 2002 Extraordinary Session of the Louisiana Legislature provided for a 20 percent increase in fees effective for FY02-03 and a 10 percent increase in fees above that, to be effective beginning in FY03-04. Fee increases for both fiscal years were promulgated in rule OS041 in the May 20, 2003, issue of the *Louisiana Register*. This Rule removes from the regulations the text that set forth the fee amounts that were effective only during FY02-03, and leaves the text that sets forth the fee amounts that are effective July 1, 2003. The basis and rationale for this Rule are to clarify the fee regulations by removing the fee amounts that are no longer in effect.

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

formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY**

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 14. Groundwater Fees

§1409. Groundwater Protection Fees

A. Assessment Oversight (Annual). The fee listed below covers the cost of reviewing, evaluating, and approving plans and/or reports that assess groundwater contamination and draw conclusions as to the need for further assessment and/or corrective action.

Hazardous Waste Facilities	\$10,395
Solid Waste Facilities	\$6,930
Nonregulated Facilities	\$3,465

B. Corrective Action Oversight (Annual). The fee listed below covers the cost of reviewing, evaluating, and approving plans and/or actions to cleanup groundwater that has been contaminated by a facility.

Hazardous Waste Facilities	\$13,860
Solid Waste Facilities	\$10,395
Nonregulated Facilities	\$3,465

C. Annual Report Review Fee. The fee listed below covers the cost of reviewing the groundwater annual report required by both the Hazardous and Solid Waste regulations.

Hazardous Waste Facilities	\$1,386
Solid Waste Facilities	\$346

D. Groundwater Monitoring Systems Installation. The fee listed below covers the cost of reviewing the geology and design of proposed groundwater monitoring systems to ensure compliance with department specifications.

Each well	\$660
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E. Groundwater Monitoring Systems Surveillance Fee (Annual). The fee listed below covers the cost of inspecting monitoring systems to ensure that they are functioning properly and continue to maintain their integrity. The cost also includes other activities, such as the analysis of boring logs and site geology (cross sections, isopachs, etc.). The maximum fee that can be charged for this category is \$6,600.

Each well	\$330
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F. Facility Inspection Fee (Annual). The fee listed below covers the cost of inspecting the various facilities to ensure compliance with the groundwater protection aspects of the facilities' permits.

Hazardous Waste Facilities	\$1,320
With sampling	\$9,900
Solid Waste Facilities	\$660
With sampling	\$1,980

G. Oversight of Abandonment Procedures. The fee listed below covers the cost of reviewing plans to plug and abandon all nonpermitted groundwater monitoring systems (monitoring wells, piezometers, observations wells, and recovery wells) to ensure that they do not pose a potential threat to groundwater.

Casing pulled	\$132 each well
Casing reamed out	\$264 each well
Casing left in place	\$660 each well

H. Maximum Total Fee Per Facility. The maximum fee that can be assessed a facility under these regulations is \$41,580.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Protection Division, LR 18:729 (July 1992), amended LR 21:797 (August 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:671 (May 2003), LR 29:2041 (October 2003).

Subpart 3. Laboratory Accreditation

Chapter 47. Program Requirements

§4707. Fees

A. - C. ...

D. The following basic fee structure will be used in determining the initial or annual fees due to the department.

Accreditation application fee payable every three years	\$660
Per major test category payable every year	\$330
Minor conventional category payable every year	\$264
Annual surveillance and evaluation applicable to minor conventional facilities and facilities applying for only one category of accreditation	\$330
Proficiency samples biannually	to be purchased by the laboratory
Bioassay/biomonitoring annually	to be purchased by the laboratory
Third-party audit	to be billed directly to the laboratory

E. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:920 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), LR 29:672 (May 2003), LR 29:2041 (October 2003).

Part III. Air
Chapter 2. Rules and Regulations for the Fee System
of the Air Quality Control Programs

§223. Fee Schedule Listing

Table 1 Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0010	Reserved					
0015 *Note 20*	Iron Ore Processing per Million Dollars in Capital Cost	1011	52.80	264.00	158.00	52.00
0020	Bituminous Coal and Lignite Mining	1211	756.00	3,780.00	2,270.00	756.00
0030	Coal Preparation	1211	1,892.00	9,455.00	5,673.00	1,892.00
0040	Crude Oil and Natural Gas Production (Less than 100 T/Yr Source)	1311	90.00	449.00	269.00	90.00
0041	Crude Oil and Natural Gas Production (equal to or greater than 100 T/Yr and less than 250 T/Yr Source)	1311	150.00	756.00	454.00	151.00
0042	Crude Oil and Natural Gas Production 250 T/Yr to 500 T/Yr Source	1311	467.00	2,335.00	1,400.00	467.00
0043	Crude Oil and Natural Gas Production Greater than 500 T/Yr Source	1311	777.00	3,113.00	2,335.00	777.00
0050	Natural Gas Liquids Per Unit	1321	379.00	1,892.00	1,134.00	379.00
0060	Construction Sand and Gravel	1442	150.00	756.00	454.00	151.00
0070	Industrial Sand	1446	150.00	756.00	454.00	151.00
0080	Salt Mining	1476	1,892.00	9,455.00	5,673.00	1,892.00
0090	Sulfur Mining	1477	1,892.00	9,455.00	5,673.00	1,892.00
0100	Commercial Rice Milling	2044	756.00	3,780.00	2,270.00	756.00
0110	Animal Feed Preparation	2048	756.00	3,780.00	2,270.00	756.00
0120	Cane Sugar, Except Refining Only	2061	1,892.00	9,455.00	5,673.00	1,892.00
0130	Cane Sugar Refining per 1,000 Lb/Hr Rated Capacity	2062 MIN.	15.11 1,866.00	75.65 9,340.00	45.38 5,603.00	15.11 1,866.00
0140	Cottonseed Oil Mill	2074	379.00	1,892.00	1,134.00	379.00
0150	Soybean Oil Mill	2075	265.00	1,324.00	795.00	265.00
0160	Animal and Marine Fats and Oil (Rendering) 10,000 or More Ton/Yr	2077	906.00	4,538.00	2,722.00	906.00
0170	Animal and Marine Fats and Oil (Rendering) Less than 10,000 Ton/Yr	2077	454.00	2,270.00	1,362.00	454.00
0180	Shortening, Table Oils, Margarine, and Other Edible Fats and Oils	2079	187.00	946.00	566.00	187.00
0190	Malt Beverages	2082	187.00	946.00	566.00	187.00
0200	Coffee Roasting Per 1,000,000 Lb/Yr Rated Capacity	2095 MIN. MAX.	150.48 359.00 9,495.00	756.36 1,795.00 47,480.00	452.76 1,077.00 28,488.00	150.48 359.00 9,495.00
0210 *Note 9*	Sawmill and/or Planing Less than 25,000 Bd Ft/Shift	2421	379.00	1,892.00	1,134.00	379.00
0220 *Note 9*	Sawmill and/or Planing More than 25,000 Bd Ft/Shift	2421	1,134.00	5,673.00	3,404.00	1,134.00
0230 *Note 9*	Hardwood Mill	2426	680.00	3,404.00	2,042.00	680.00
0240 *Note 9*	Special Product Sawmill N.E.C.	2429	680.00	3,404.00	2,042.00	680.00
0250	Millwork with 10 Employees or More	2431	680.00	3,404.00	2,042.00	680.00
0260	Hardwood Veneer and Plywood	2435	1,513.00	7,564.00	4,538.00	1,513.00
0270	Softwood Veneer and Plywood	2436	1,513.00	7,564.00	4,538.00	1,513.00
0280	Wood Preserving	2491	379.00	1,892.00	1,134.00	379.00
0290	Particleboard/Waferboard Manufacture (O.S.B.)	2492	1,513.00	7,564.00	4,538.00	1,513.00
0300	Hardboard Manufacture	2499	1,134.00	5,673.00	3,404.00	1,134.00
0310	Furniture and Fixtures: A) 100 or More Employees	2511	478.00	2,394.00	1,436.00	478.00
0320	Furniture and Fixtures: B) More than 10 and Less than 100 Employees	2511	227.00	1,134.00	680.00	227.00
0330	Pulp Mills Per Ton Daily Rated Capacity	2611 MIN.	5.65 3,892.00	28.35 19,459.00	17.03 11,675.00	5.65 3,891.00
0340 *Note 1*	Paper Mill Per Ton Daily Rated Capacity	2621 MIN.	5.65 3,892.00	28.35 19,459.00	17.03 11,675.00	5.65 3,891.00
0350	Paperboard Mills Per Ton Daily Rated Capacity	2631 MIN.	5.65 3,892.00	28.35 19,459.00	17.03 11,675.00	5.65 3,891.00
0360	Paper Coating	2641	227.00	1,134.00	680.00	227.00

Table 1
Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0365	Paper Bag Manufacture	2643	288.00	1,436.00	862.00	288.00
0370	Insulation Manufacture	2649	379.00	1,892.00	1,134.00	379.00
0375	Folding Paper Board Boxes Per Packaging Press Line	2651 MIN.	379.00 1,866.00	1,892.00 9,340.00	1,134.00 5,603.00	379.00 1,866.00
0380	Corrugated Boxes: Converters (with Boilers)	2653	566.00	2,835.00	1,703.00	566.00
0381	Corrugated Boxes: Sheet Plant	2653	239.00	1,197.00	718.00	239.00
0390	Building Board and Tile	2661	1,892.00	9,455.00	5,673.00	1,892.00
0400	Commercial Printing: Black and White Per Press	2752 MIN.	226.00 1,089.00	1,134.00 5,448.00	680.00 3,268.00	226.00 1,089.00
0410	Commercial Printing: Color Per Press	2752 MIN.	378.00 1,866.00	1,890.00 9,340.00	1,135.00 5,603.00	378.00 1,866.00
0420 *Note 2*	Caustic/Chlorine Per 1,000,000 Lb/Yr Rated Cap Posed on Chlorine	2812 MIN.	3.79 1,866.00	18.92 9,340.00	11.34 5,603.00	3.79 1,866.00
0440	Industrial Gases	2813	756.00	3,780.00	2,270.00	756.00
0450	Inorganic Pigments	2816	756.00	3,780.00	2,270.00	756.00
0460	Aluminum Sulfate Production Per 100 Ton/Yr Rated Capacity	2819 MIN.	1.87 1,556.00	9.46 7,783.00	5.65 4,670.00	1.87 1,556.00
0470	Alumina Per 1,000,000 Lb/Yr Rated Capacity	2819 MIN.	7.54 1,556.00	37.80 7,783.00	22.68 4,670.00	7.54 1,556.00
0480	Catalyst Mfg. and Cat. Regeneration Per Line	2819	1,892.00	9,455.00	5,673.00	1,892.00
0490	Fluosilicates	2819	1,134.00	5,673.00	3,404.00	1,134.00
0500	Industrial Inorganic Chemicals Mfg. N.E.C. Per 1,000,000 Lb/Yr	2819 MIN.	1.87 1,089.00	9.46 5,448.00	5.65 3,268.00	1.87 1,089.00
0510	Industrial Inorganic Acids N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2819 MIN.	18.92 1,866.00	94.55 9,340.00	56.73 5,603.00	18.92 1,866.00
0520	Nitric Acid Manufacture Per 1,000 Ton/Yr Rated Capacity	2819 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0530	Phosphoric Acid Mfg. Per Ton Daily Rated Capacity	2819 MIN.	1.87 1,556.00	9.46 7,783.00	5.65 4,670.00	1.87 1,556.00
0540	Sulphuric Acid Manufacture Per Ton Daily Rated Capacity	2819 MIN.	1.87 1,556.00	9.46 7,783.00	5.65 4,670.00	1.87 1,556.00
0550	Polyethylene/Polypropolene Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	15.11 1,866.00	75.65 9,340.00	45.38 5,603.00	15.11 1,866.00
0560	PVC Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	18.92 1,866.00	94.55 9,340.00	56.73 5,603.00	18.92 1,866.00
0570	Synthetic Resins Manufacture N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	18.92 1,866.00	94.55 9,340.00	56.73 5,603.00	18.92 1,866.00
0580	Rubber Mfg. Per 1,000,000 Lb/Yr Rated Capacity	2822 MIN.	18.92 1,866.00	94.55 9,340.00	56.73 5,603.00	18.92 1,866.00
0585	Paint Manufacturing and Blending	2851	704.00	3,518.00	2,111.00	704.00
0590	Charcoal Per Oven	2861	379.00	1,892.00	1,134.00	379.00
0600	Gum and Wood Chemicals Per Unit	2861	1,134.00	5,673.00	3,404.00	1,134.00
0610	Styrene Monomer Per 1,000,000 Lb/Yr Rated Capacity	2865 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0620	Halogenated Hydrocarbons Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	11.34 1,866.00	56.73 9,340.00	34.04 5,603.00	11.34 1,866.00
0630	Organic Oxides, Alcohols, Glycols Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0635	Olefins and Aromatics N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0640	Ammonia Manufacture Per Ton Daily Rated Capacity	2873 MIN.	3.78 1,866.00	18.92 9,340.00	11.34 5,603.00	3.78 1,866.00
0650	Fertilizer Manufacture Per 1,000 Ton/Yr Rated Capacity	2873 MIN.	1.87 1,089.00	9.46 5,448.00	5.65 3,268.00	1.87 1,089.00
0660	Urea and Ureaform Per 1,000 Ton/Yr Rated Capacity	2873 MIN.	3.78 1,089.00	18.92 5,448.00	11.34 3,268.00	3.78 1,089.00
0670	Pesticides Mfg. Per Train	2879	1,513.00	7,564.00	4,538.00	1,513.00
0680	Carbon Black Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2895 MIN.	22.68 1,866.00	113.44 9,340.00	68.09 5,603.00	22.68 1,866.00
0690	Chemical and Chemical Prep. N.E.C. Per 1,000,000 Lb/Yr	2899 MIN.	18.92 1,556.00	94.55 7,783.00	56.73 4,670.00	18.92 1,556.00
0695	Chemical and Chemical Prep. N.E.C. with Output Less than 1,000,000 Lb/Yr	2899	1,077.00	5,388.00	3,233.00	1,077.00
0700	Drilling Mud-Storage and Distribution	2899	379.00	1,892.00	1,134.00	379.00
0710	Drilling Mud-Grinding	2899	1,513.00	7,564.00	4,538.00	1,513.00
0715	Salt Processing and Packaging Per 1,000,000 Lb/Yr	2899 MIN.	0.30 467.00	1.54 2,335.00	0.92 1,400.00	0.30 467.00

Table 1
Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0720 *Note 3*	Petroleum Refining Per 1,000 BBL/Day Rated Capacity Crude Thruput	2911 MIN.	94.55 1,866.00	472.77 9,340.00	284.00 5,603.00	95.55 1,866.00
0730 *Note 4*	Asphaltic Concrete Paving Plants Per Ton/Hr Rated Capacity	2951 MIN.	2.85 777.00	14.22 3,891.00	8.53 2,335.00	2.85 777.00
0740	Asphalt Blowing Plant (Not to be Charged Separately if in Refinery)	2951	1,134.00	5,673.00	3,404.00	1,134.00
0760 *Note 5*	Blending, Compounding, or Refining of Lubricants Per Unit	2992	1,134.00	5,673.00	3,404.00	1,134.00
0770	Petroleum Coke Calcining Per 1,000 Ton/Yr Rated Capacity	2999 MIN.	15.11 1,866.00	75.65 9,340.00	45.38 5,603.00	15.11 1,866.00
0773	Fiberglass Swimming Pools	N/A	265.00	1,324.00	795.00	265.00
0775	Plastics Injection Moulding and Extrusion Per Line	3079	379.00	1,892.00	1,134.00	379.00
0780	Glass and Glass Container Mfg. Natural Gas Fuel Per Line	3229	566.00	2,835.00	1,703.00	566.00
0790	Cement Manufacture Per 1,000 Ton/Yr Rated Capacity	3241 MIN.	11.34 1,556.00	56.73 7,783.00	34.04 4,670.00	11.34 1,556.00
0800	Glass and Glass Container Mfg. Fuel Oil Per Line	3241	1,134.00	5,673.00	3,404.00	1,134.00
0810	Brick Manufacture Per 1,000 Ton/Yr Rated Capacity	3251 MIN.	5.65 777.00	28.35 3,891.00	17.03 2,335.00	5.65 777.00
0815	Concrete Products	3272	383.00	1,915.00	1,148.00	383.00
0820 *Note 12*	Ready-Mix Concrete	3273	946.00	2,874.00	1,892.00	946.00
0830	Lime Manufacture Per 1,000 Ton/Yr Rated Capacity	3274 MIN.	11.34 1,089.00	56.73 5,448.00	34.04 3,268.00	11.34 1,089.00
0840	Gypsum Manufacture Per 1,000 Ton/Yr Rated Capacity	3275 MIN.	11.34 1,089.00	56.73 5,448.00	34.04 3,268.00	11.34 1,089.00
0850	Asbestos Products Per Site or Per Production Unit	3292	2,270.00	11,347.00	6,809.00	2,270.00
0860	Clay Kiln	3295	454.00	2,271.00	1,362.00	454.00
0870	Rock Crusher	3295	416.00	2,080.00	1,249.00	416.00
0880	Gray Iron and Steel Foundries: A) 3,500 or More Ton/Yr Production	3321	606.00	3,024.00	1,815.00	606.00
0890	Gray Iron and Steel Foundries: B) Less than 3,500 Ton/Yr Production	3321	301.00	1,513.00	906.00	301.00
0900	Malleable Iron Foundries: A) 3,500 or More Ton/Yr Production	3322	606.00	3,024.00	1,815.00	606.00
0910	Malleable Iron Foundries: B) Less than 3,500 Ton/Yr Production	3322	301.00	1,513.00	906.00	301.00
0920	Steel Investment Foundries: A) 3,500 or More Ton/Yr Production	3324	606.00	3,024.00	1,815.00	606.00
0930	Steel Investment Foundries: B) Less than 3,500 Ton/Yr Production	3324	301.00	1,513.00	906.00	301.00
0940	Steel Foundries N.E.C.: A) 3,500 or More Ton/Yr Production	3325	606.00	3,024.00	1,815.00	606.00
0950	Steel Foundries N.E.C.: B) Less than 3,500 Ton/Yr Production	3325	301.00	1,513.00	906.00	301.00
0960	Primary Smelting and Refining of Copper Per 100,000 Lb/Yr Rated Capacity	3331 MIN.	7.54 1,866.00	37.80 9,340.00	22.68 5,603.00	7.54 1,866.00
0970	Aluminum Production Per Pot	3334 MIN.	37.80 1,866.00	189.12 9,340.00	113.00 5,603.00	37.80 1,866.00
0980	Refining of Non-Ferrous Metals N.E.C. Per 1,000 Lb/Yr Rated Capacity	3339 MIN.	0.04 1,866.00	0.36 9,340.00	0.21 5,603.00	0.04 1,866.00
0990	Secondary Smelting of Non-Ferrous Metals Per Furnace	3341 MIN.	1,134.00 2,335.00	5,673.00 11,675.00	3,404.00 7,005.00	1,134.00 2,335.00
1000	Wire Manufacture	3357	756.00	3,780.00	2,270.00	756.00
1010	Aluminum Foundries (Castings) Per Unit	3361	301.00	1,513.00	906.00	301.00
1020	Brass/Bronze/Copper-Based Alloy Foundry Per Furnace	3362	379.00	1,892.00	1,134.00	379.00
1030	Metal Heat Treating Including Shotpeening	3398	227.00	1,134.00	680.00	227.00
1040	Metal Can Manufacture	3411	757.00	3,780.00	2,270.00	756.00
1050	Drum Manufacturing and/or Reconditioning	3412	1,134.00	5,673.00	3,404.00	1,134.00
1059	Fabricated Structural Steel with 5 or More Welders	3441	756.00	3,780.00	2,270.00	756.00
1060	Fabricated Plate Work with 5 or More Welders	3443	957.00	4,789.00	2,874.00	957.00
1070	Electroplating, Polishing and Anodizing with 5 or More Employees	3471	227.00	1,134.00	680.00	227.00
1080	Sandblasting or Chemical Cleaning of Metal: A) 10 or More Employees	3471	1,134.00	5,673.00	3,404.00	1,134.00

Table 1
Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
1090	Sandblasting or Chemical Cleaning of Metal: B) Less than 10 Employees	3471	566.00	2,835.00	1,703.00	566.00
1100	Coating, Engraving, and Allied Services: A) 10 or More Employees	3479	416.00	2,080.00	1,249.00	416.00
1110	Coating, Engraving, and Allied Services: B) Less than 10 Employees	3479	227.00	1,134.00	680.00	227.00
1120	Galvanizing and Pipe Coating Excluding All Other Activities	3479	454.00	2,270.00	1,362.00	454.00
1130	Painting Topcoat Per Line	3479	379.00	1,892.00	1,134.00	379.00
1140	Potting Per Line	3479	227.00	1,134.00	680.00	227.00
1150	Soldering Per Line	3479	227.00	1,134.00	680.00	227.00
1160	Wire Coating Per Line	3479	756.00	3,780.00	2,270.00	756.00
1170	Oil Field Machinery and Equipment	3533	379.00	1,892.00	1,134.00	379.00
1180	Power Chain Saw Manufacture Per Line	3546	566.00	2,835.00	1,703.00	566.00
1190	Commercial Grain Dryer	3559	454.00	2,270.00	1,362.00	454.00
1193	Commercial Laundry, Dry Cleaning, and Pressing Machines	3582	566.00	2,835.00	1,703.00	566.00
1195	Electric Transformers Per 1,000 Units/Year	3612 MIN.	175.92 478.00	879.56 2,394.00	527.74 1,436.00	175.92 478.00
1200	Electrode Manufacture Per Line	3624	529.00	2,645.00	1,588.00	529.00
1210	Telephone Manufacture Per Line	3661	1,324.00	6,618.00	3,971.00	1,324.00
1220	Electrical Connector Manufacture Per Line	3678	680.00	3,404.00	2,042.00	680.00
1230	Battery Manufacture Per Line	3691	756.00	3,780.00	2,270.00	756.00
1240	Electrical Equipment Per Line	3694	454.00	2,270.00	1,362.00	454.00
1245	Automobile, Truck, and Van Assembly Per 1,000 Vehicles Per Year Capacity	3711 MIN. MAX.	189.12 1,197.00 37,829.00	945.50 5,998.00 189,145.00	567.30 3,592.00 113,487.00	189.12 1,197.00 37,829.00
1250	Ship and Boat Building: A) 5001 or More Employees	3732	5,673.00	28,365.00	17,020.00	5,673.00
1260	Ship and Boat Building: B) 2501 to 5000 Employees	3732	3,780.00	18,912.00	11,347.00	3,780.00
1270	Ship and Boat Building: C) 1001 to 2500 Employees	3732	1,892.00	9,455.00	5,673.00	1,892.00
1280	Ship and Boat Building: D) 201 to 1000 Employees	3732	1,134.00	5,673.00	3,404.00	1,134.00
1290	Ship and Boat Building: E) 200 or Less Employees	3732	379.00	1,892.00	1,134.00	379.00
1300	Playground Equipment Manufacture Per Line	3949	566.00	2,835.00	1,703.00	566.00
1310	Grain Elevators: A) 20,000 or More Ton/Yr	4221	1,208.00	6,050.00	3,630.00	1,208.00
1320	Grain Elevators: B) Less than 20,000 Ton/Yr	4221	606.00	3,025.00	1,815.00	606.00
1330 *Note 6*	A) Petroleum, Chemical Bulk Storage and Terminal (over 3,000,000 BBL Capacity)	4226	11,347.00	56,732.00	34,040.00	11,347.00
1340 *Note 6*	B) Petroleum, Chemical Bulk Storage and Terminal (1,000,000- 3,000,000 BBL Capacity)	4226	7,564.00	37,821.00	22,692.00	7,564.00
1350 *Note 6*	C) Petroleum, Chemical Bulk Storage and Terminal (500,001- 1,000,000 BBL Capacity)	4226	3,780.00	18,912.00	11,347.00	3,780.00
1360 *Note 6*	D) Petroleum, Chemical Bulk Storage and Terminal (500,000 BBL Capacity or Less)	4226	1,892.00	9,455.00	5,673.00	1,892.00
1361 *Note 8*	Wholesale Distribution of Coke and Other Bulk Goods Per 1,000 Ton/Yr Capacity	4463 MIN.	0.77 1,866.00	3.79 9,340.00	2.24 5,603.00	0.77 1,866.00
1362	Crude Oil Pipeline: Facility with Less than 100,000 BBLs Storage Capacity	4612	838.00	4,191.00	2,515.00	838.00
1363	Crude Oil Pipeline: Facility with 100,000 to 500,000 BBLs Storage Capacity	4612	1,197.00	5,988.00	3,592.00	1,197.00
1364	Crude Oil Pipeline: Facility with Over 500,000 BBLs Storage Capacity	4612	1,676.00	8,382.00	5,029.00	1,676.00
1366	Refined Oil Pipeline: Facility with Less than 100,000 BBLs Storage Capacity	4613	718.00	3,592.00	2,154.00	718.00
1367	Refined Oil Pipeline: Facility with 100,000 to 500,000 BBLs Storage Capacity	4613	957.00	4,789.00	2,874.00	957.00
1368	Refined Oil Pipeline: Facility with Over 500,000 BBLs Storage Capacity	4613	1,436.00	7,185.00	4,310.00	1,436.00
1370	Railcar/Barge/Tank Truck Cleaning Heavy Fuels Only	4742	379.00	1,892.00	1,134.00	379.00
1380	Railcar and Barge Cleaning Other Than Heavy Fuels	4742	1,892.00	9,455.00	5,673.00	1,892.00
1390	Tank Truck Cleaning Other Than Heavy Fuels	4742	1,134.00	5,673.00	3,404.00	1,134.00

Table 1
Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
1400	A) Electric Power Gen. Per MW (Over 0.7 Percent S in Fuel)	4911 MIN.	17.57 3,580.00	87.94 17,902.00	52.76 10,741.00	17.57 3,580.00
1410 *Note 7*	B) Electric Power Gen. Per MW (0.7 Percent S or Less in Fuel)	4911 MIN.	10.53 1,712.00	52.76 8,562.00	31.65 5,137.00	10.53 1,712.00
1420	C) Electric Power Gen. Per MW (Natural Gas Fired)	4911 MIN.	5.29 1,245.00	26.39 6,226.00	15.83 3,736.00	5.29 1,245.00
1430 *Note 11*	Natural Gas Comp Per 100 H.P. (Turbines)	4922	7.54	37.80	22.68	7.54
1440 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: A) 50,000 H.P.	4922	34.06	170.21	102.12	34.06
1450 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: B) 20,000 to 50,000 H.P.	4922	37.80	189.12	113.44	37.80
1460 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: C) 5,000 to 20,000 H.P.	4922	45.38	226.92	136.12	45.38
1470 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: D) 2,500 to 5,000 H.P.	4922	52.96	264.71	158.84	52.96
1480 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: E) 1,000 to 2,500 H.P.	4922	56.73	283.65	170.21	56.73
1490 *Note 11*	Recip. Nat Gas Comp: F) Less than 1,000 H.P.	4922	756.00	1,892.00	756.00	756.00
1500 *Note 10*	Coal Gassification Per \$100,000 Capital Cost	4925 MIN. MAX.	7.54 1,197.00 60,558.00	37.80 5,988.00 302,788.00	22.68 3,592.00 181,672.00	7.54 1,197.00 60,558.00
1510 *Note 10*	Co-Generation Per \$100,000 Capital Cost	4939 MIN. MAX.	7.54 1,197.00 37,829.00	37.80 5,988.00 189,145.00	22.68 3,592.00 113,487.00	7.54 1,197.00 37,829.00
1520	Incinerators: A) 1,000 Lb/Hr and Greater Capacity	4953	478.00	2,394.00	1,436.00	478.00
1521	Incinerators: B) Less than 1,000 Lb/Hr Capacity	4953	154.00	777.00	467.00	154.00
1525	Sanitary Landfill Per Million Mg of Planned Capacity	4953 MIN.	132.00 264.00	660.00 1,320.00	396.00 792.00	132.00 264.00
1530	Municipal Incinerators	4953	3,780.00	18,912.00	11,347.00	3,780.00
1532	Commercial Hazardous Waste Incinerator Per 1,000,000 BTU Per Hour Thermal Capacity	4953 MIN.	217.95 4,789.00	1,089.73 23,950.00	653.84 14,370.00	217.95 4,789.00
1533	Noncommercial Hazardous Waste Incinerator (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN.	108.97 3,113.00	545.61 15,567.00	326.91 9,340.00	108.97 3,113.00
1534	Commercial Hazardous Waste Disp. Facility N.E.C.	4953	31,135.00	155,676.00	93,405.00	31,135.00
1535	Commercial Hazardous Waste Underground Injection (Surface Facilities) Per Location	4953	6,226.00	31,135.00	18,681.00	6,226.00
1536	Recoverable/Re-usable Materials Proc. Facility (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN. MAX.	108.97 3,113.00 15,567.00	544.86 15,567.00 77,838.00	326.91 9,340.00 46,702.00	108.97 3,113.00 15,567.00
1540	Steam Gen. Units Per 1000 Lb/Hr Steam Cap: Natural Gas or Comb Non-Fossil Fuels	4961 MIN.	1.87 310.00	9.46 1,556.00	5.65 933.00	1.87 310.00
1550	Steam Gen. Units Per 1000 Lb/Hr Steam Cap: Fuels with 0.7 Percent S or Less	4961 MIN.	3.79 777.00	18.92 3,891.00	11.34 2,335.00	3.79 777.00
1560	Steam Gen. Units Per 1000 Lb/Hr Steam Cap: Fuels with More than 0.7 Percent S	4961 MIN.	5.65 1,089.00	28.35 5,448.00	17.03 3,268.00	5.65 1,089.00
1570	Cement (Bulk Distribution)	5052	1,513.00	7,564.00	4,538.00	1,513.00
1580	Wholesale Distribution of Coal Per 1,000 Ton/Yr Throughput	5052 MIN.	0.36 1,089.00	1.87 5,448.00	1.11 3,268.00	0.36 1,089.00
1590	Automobile Recycling Scrap Per 1000 Ton/Yr	5093 MIN. MAX.	15.56 777.00 37,829.00	77.83 3,891.00 189,145.00	46.70 2,335.00 113,487.00	15.56 777.00 37,829.00
1600	Bulk Loader: Over 100,000 Ton/Yr Throughput	5153	3,780.00	18,912.00	11,347.00	3,780.00
1610 *Note 14a*	Bulk Loader: Less Than or Equal to 100,000 and More Than 25,000 Ton/Yr Throughput	5153	1,892.00	9,455.00	5,673.00	1,829.00
1611 *Note 14a*	Bulk Loader: 25,000 Ton/Yr or Less Throughput	5153	1,077.00	5,388.00	3,233.00	1,077.00
1612 *Note 14a*	Bulk Loader: No Grain or Dusty Materials Transfer	5153	718.00	3,592.00	2,154.00	718.00
1620	Grain Elevators-Terminal Per 10,000 BU/Yr Throughput	5153 MIN.	0.36 1,712.00	1.87 8,562.00	1.11 5,137.00	0.36 1,712.00
1630	Wholesale Distribution of Chemicals and Allied Products Per Facility	5161	946.00	3,780.00	2,835.00	946.00
1640	Petroleum Bulk Plants	5171	77.00	379.00	227.00	77.00
1650	Petroleum Bulk Terminal	5171	756.00	3,780.00	2,270.00	756.00
1660	Petroleum Bulk Station	5171	77.00	379.00	227.00	77.00

Table 1 Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
1670	Storage Tank	5171	0.00	756.00	379.00	379.00
1680	Crude Oil Distribution	5172	1,134.00	5,673.00	3,404.00	1,134.00
1690	Tire Recapping Plant	7534	154.00	777.00	467.00	154.00
1700	Chemical Waste Disposal Facility for Nonhazardous Waste	9998	3,518.00	17,592.00	10,555.00	3,518.00
1710	Negotiated Fee	9999	0.00	0.00	0.00	0.00
1711	Research Fee for Alternate Disposal of Hazardous Waste	9999	0.00	0.00	0.00	0.00
1720 *Note 15*	Small Business Sources	N/A	143.00	713.00	428.00	143.00
1722	Small Source Permit	N/A	143.00	713.00	428.00	143.00

Table 2 Additional Fees		
Fee Number	Fee Description	Amount
2000	Company Ownership/Operator Change or Name Change Transfer of an Existing Permit	150.00
2010	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions	300.00
2015 *Note 15*	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions for Small Business Sources	143.00
2020	The Issuance of an Asbestos Demolition Verification Form (ADVF) - (at least 10 working days notification given)	66.00
2030	The Issuance of an Asbestos Demolition Verification Form (ADVF) - (less than 10 working days notification given)	99.00
2040	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	264.00
2050	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	396.00
2060	Worker Accreditation for Asbestos-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	66.00
2070	Worker Accreditation for Asbestos-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	99.00
2080	Duplicate Certificate	33.00
2090	Training Organization Recognition Plus Trainer Recognition Per Trainer-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	396.00
2100	Training Organization Recognition Plus Trainer Recognition Per Trainer-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	594.00
2200 *Note 13*	Air Toxics Annual Fee Per Ton Emitted on an Annual Basis: Class I Pollutants Class II Pollutants Class III Pollutants	142.56 71.28 35.64
2300 *Note 14*	Criteria Pollutant Annual Fee Per Ton Emitted on an Annual Basis: Nitrogen oxides (NOx) Sulfur dioxide (SO2) Non-toxic organic (VOC) Particulate (PM10)	12.83/ton
2400	An application approval fee for Stage II Vapor Recovery An annual facility inspection fee for Stage II Vapor Recovery	132.00 198.00
2600 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 1	264.00
2620 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 2	528.00
2630 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 3	3,300.00
2800	An application fee for mobile sources emissions banking (auto scrappage)	66.00
2810	An application fee for point source emissions banking (not applicable when filing application with a new permit or permit modification)	66.00
2900 *Note 19*	Lead Contractor License Evaluation Fee	500.00
2901 *Note 19*	Lead Project Supervisor Accreditation Fee	250.00
2902 *Note 19*	Lead Project Designer Accreditation Fee	500.00

Table 2 Additional Fees		
Fee Number	Fee Description	Amount
2903 *Note 19*	Risk Assessor Accreditation Fee	250.00
2904 *Note 19*	Lead Inspector Accreditation Fee	150.00
2905 *Note 19*	Lead Worker Accreditation Fee	50.00
2906 *Note 19*	Accreditation Fee for Louisiana Lead Training Organizations, Application Processing Fee	500.00
2907 *Note 19*	Accreditation Fee for Louisiana Lead Training Organizations, Processing Fee Per Instructor	50.00
2908 *Note 19*	Accreditation Fee for Out of State Training Organizations, Application Processing Fee	750.00
2909 *Note 19*	Accreditation Fee for Out of State Training Organizations, Processing Fee Per Instructor	100.00
2910 *Note 19*	Lead Abatement Project Notification Fee, 2000 Square Feet and Under	200.00
2911 *Note 19*	Lead Abatement Project Notification Fee for Each Additional Increment of 2000 Square Feet or Portion Thereof	100.00
2912 *Note 19*	Revisions to Lead Abatement Project Notification Fee	50.00
2913 *Note 19*	Soil Lead Abatement Project Notification Fee, Half Acre or Less	200.00
2914 *Note 19*	Soil Lead Abatement Project Notification Fee, Each Additional Half Acre or Portion Thereof	100.00

Explanatory Notes for Fee Schedule

Notes 1. – 10. ...

Note 11. The maximum annual maintenance fee for categories 1430 - 1490 is not to exceed \$37,829 total for any one gas transmission company.

Note 12. The maximum annual maintenance fee for one location with two or more plants shall be \$1,711.

Note 13. Fees will be determined by aggregating actual annual emissions of each class of toxic air pollutants (as delineated in LAC 33:III.Chapter 51.Table 51.1) for a facility and applying the appropriate fee schedule for that class. Fees shall not be assessed for emissions of a single toxic air pollutant over and above 4,000 tons per year from a facility. The minimum fee for this category shall be \$132.

Note 14. Fees will not be assessed for emissions of a single criteria pollutant over and above 4,000 tons per year from a facility. Criteria fees will be assessed on actual annual emissions that occurred during the previous calendar year. The minimum fee for this category shall be \$132.

Notes 14a. – 20. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 30:2341, and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496 (November 1997), LR 23:1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:672 (May 2003), LR 29:2042 (October 2003).

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality Hazardous Waste

Chapter 51. Fee Schedules

§5111. Calculation of Application Fees

A. ...

B. Application Fee Schedule

Item	Fee
Site analysis—per acre site size	\$ 330 ¹
Process and plan analysis	\$ 1,320
Facility analysis—per facility ²	\$ 660
Management/financial analysis	\$ 1,320

[Note: Fee equals total of the four items.]

¹ Up to 100 acres, no additional fee thereafter.

² Incinerator, land farm, treatment pond, etc. each counted as a facility.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 18:724 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:287 (March 2001), LR 29:685 (May 2003), LR 29:2048 (October 2003).

§5119. Calculation of Annual Maintenance Fees

A. Fee per Site

Off-Site Disposer (Commercial)	\$105,336
Reclaimer (compensated for waste removed)	\$ 46,200
Reclaimer (uncompensated for waste removed or pays for waste removed)	\$ 33,000
Off-Site Disposer (Noncommercial)	\$ 26,400
On-Site Disposer	\$ 13,200

[NOTE: The higher fee for off-site disposal is due to the cost of the manifest system and emergency response to transport spills (neither cost is applicable to on-site disposers).]

B. Fee per Hazardous Waste Facility Type

Unit Type	Fee
Storage:	
Container/Tank/Waste Pile/etc.	\$ 4,320
Treatment:	
Incinerator/Boiler/Industrial Furnace/Filtration Unit/etc.	\$ 6,956
Disposal:	
Landfill/Miscellaneous Unit/etc.	\$10,916

C. Fee Based on Volume

Less than 1,000 tons	\$ 2,577
Less than 10,000 tons	\$ 6,473
Less than 100,000 tons	\$10,370
Less than 1,000,000 tons	\$14,267
More than 1,000,000 tons	\$18,163

D. - E. ...

F. Land Disposal Prohibitions Fee. Treatment, processing (including use, reuse, recycling), and/or disposal facility annual fee (not on storage facilities). This fee applies to facilities handling wastes subject to the land disposal prohibitions in LAC 33:V.Chapter 22.

On-Site	\$1,320
Off-Site Noncommercial	\$2,640
Reclaimer	\$3,300
Off-Site Commercial	\$6,600

G. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:684 (August 1990), LR 16:1057 (December 1990), LR 18:723 (July 1992), LR 18:1375 (December 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:685 (May 2003), LR 29:2049 (October 2003).

§5120. Land Disposal Prohibition Petition Fees

A. Petitions submitted in accordance with R.S. 30:2193(E)(2) and/or LAC 33:V.Chapter 22 are subject to additional fees as noted below for each petition submitted. These fees must be submitted at the time a petition is submitted.

Variance	\$13,200
Exemption	\$59,400
Extension	\$6,600
No-Alternatives Determinations:	
Original Petition	\$13,200
Renewal Petition/Request	\$13,200
Request for determination for addition of a hazardous waste(s) not covered by existing determination	\$1,320

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1803 (October 1999), LR 29:686 (May 2003), LR 29:2049 (October 2003).

§5123. Registration Fees, HW-1

A. An initial registration fee is charged for each generator, transporter, or TSD facility obtaining an EPA Identification Number from the department. There is no fee for modifying an existing registration based on any change of information submitted on Notification Form HW-1.

Initial Fee	\$12.50
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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:319 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 14:622 (September 1988), LR 18:725 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:686 (May 2003), LR 29:2049 (October 2003).

§5125. Annual Monitoring and Maintenance Fee

A. Fee will annually be \$375, plus the prohibited waste fee.

B. Annual prohibited waste fee is \$132 for each generator who generates for land disposal as provided in LAC 33:V.Chapter 22. The generator will be subject to this fee if any waste generated is prohibited from disposal at any time during the year for which the fee is assessed.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:321 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 15:378 (May 1989), LR 17:658 (July 1991), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:686 (May 2003), LR 29:2049 (October 2003).

§5135. Transporter Fee

A. All transporters of hazardous waste with a facility in Louisiana shall pay a fee of \$264 per year to the department. There will be only one fee regardless of the number of vehicles in the service of the transporter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 14:622 (September 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:686 (May 2003), LR 29:2050 (October 2003).

§5137. Conditionally Exempt Small Quantity Generator Fee

A. Conditionally exempt small quantity generators (see LAC 33:V.108) shall pay a fee of \$66 per year to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 14:622 (September 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:716 (May 2001), LR 29:687 (May 2003), LR 29:2050 (October 2003).

§5139. Groundwater Protection Permit Review Fee

A. Permit Review Fee. This fee covers the cost of reviewing permits for geology, geotechnical design, and groundwater protection aspects.

Hazardous Waste Facilities (1 time)	\$6,600 each
Permit Modifications:	
Class 1 and 2	\$264 each
Class 3	\$990 each
Solid Waste Facilities (1 time)	\$6,600 each
Permit Modifications:	
Major	\$660 each
Minor	\$264 each

B. Oversight of Abandonment Procedures. This fee covers the cost of reviewing plans to plug and abandon all permitted groundwater monitoring systems (monitoring wells, piezometers, observations wells, and recovery wells) to ensure that they do not pose a potential threat to groundwater.

Casing pulled	\$132 each
Casing reamed out	\$264 each
Casing left in place	\$660 each

C. Groundwater Monitoring Systems Installation Permit. This fee covers the cost of reviewing the geology and design of proposed groundwater monitoring systems to ensure compliance with department specifications for units subject to permitting under these regulations.

Each Well	\$660
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D. Groundwater Monitoring Systems Inspection Fee (Annual). This fee covers the cost of inspecting monitoring systems for units subject to permitting under these regulations, to ensure that they are functioning properly and continue to maintain their integrity.

Each Well	\$330
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AUTHORITY NOTE: Promulgated in accordance with 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Groundwater Division, LR 14:621 (September 1988), amended LR 16:685 (August 1990), amended by the Hazardous Waste Division, LR 18:725 (July 1992), LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:687 (May 2003), LR 29:2050 (October 2003).

§5141. Incinerator and Boiler/Industrial Furnace Inspection and Monitoring Fee

A. ...

1. This fee will be \$660 for each day of the test burn or trial burn.

2. ...

B. Annual Monitoring and Maintenance Fee for Incinerators, Boilers, Industrial Furnaces, and Commercial Recycling Furnaces. This is an annual fee applied to defray the cost of annually inspecting the required continuous monitors and recording devices for each incinerator, boiler, or industrial furnace to determine whether they are being properly maintained and calibrated. This fee will annually be a flat \$1,320.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 18:1375 (December 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2510 (November 2000), LR 29:687 (May 2003), LR 29:2050 (October 2003).

§5143. Annual Landfill Inspection and Monitoring Fee

A. An annual fee shall be charged for the inspection of the regulatory requirement for leak detection and leachate collection systems associated with hazardous waste landfills to determine operational status and degree of proper maintenance. For each landfill unit or cell with a separate leak detection and leachate collection system, the annual fee will be \$132.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 18:725 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2050 (October 2003).

§5145. Annual Land Treatment Unsaturated Zone Monitoring Inspection Fee

A. Semiannual Zone of Incorporation (ZOI) Inspection Fee. This fee covers the cost of inspection and random sampling and laboratory analysis of the zone of incorporation.

ZOI soil samples	\$1,320 each acre
Soil-pore liquid monitors (Lysimeters)	\$3,300 each monitor

B. Annual Land Treatment Unit Report Review Fee. This fee covers the cost of reviewing the report required by final permits for land treatment. Included in the annual land treatment unit report are the results of the unsaturated zone monitoring. Included are the semiannual soil core sample analyses and the quarterly soil-pore liquid quality analyses from below the treatment zone. Also included are soil moisture tensiometer readings of the ZOI.

Hazardous Waste Facilities	\$1,320 each report
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C. Permit Review Fee. This fee covers the cost of reviewing permits for geology, geotechnical design, and hydrological separation requirements of these regulations.

Initial Permit	\$6,600 each
Permit Modifications:	
Class 1	\$264 each
Class 2 or 3	\$990 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2050 (October 2003).

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 5. Solid Waste Management System

Subchapter D. Solid Waste Fees

§525. Standard Permit Application Review Fee

A. Applicants for Type I, I-A, II, and II-A standard permits shall pay a \$3,300 permit application review fee for each facility. The fee shall accompany each permit application submitted.

B. Applicants for Type III standard permits or beneficial-use permits shall pay a permit application review fee of \$660 for each facility. The fee shall accompany each permit application submitted.

C. Permit holders providing permit modifications for Type I, I-A, II, and II-A facilities shall pay a \$1,320 permit-modification review fee. The fee shall accompany each modification submitted. Permit holders providing mandatory modifications in response to these regulations shall pay a \$660 permit-modification fee. The fee shall accompany each mandatory modification submitted. Permit modifications required by LAC 33:VII.709.E.1 will not be subject to a permit modification fee.

D. Permit holders providing permit modifications for Type III facilities or beneficial use facilities shall pay a \$330 permit-modification review fee. The fee shall accompany each modification submitted.

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, Solid Waste Division, LR 19:187 (February 1993), amended by the

Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2051 (October 2003).

§527. Closure Plan Review Fee

A. Applicants for Type I, I-A, II, and II-A closures shall pay a \$1,320 closure-plan review fee. The fee shall accompany each closure plan submitted.

B. Applicants for Type III or beneficial-use facilities closures shall pay a \$330 closure-plan review fee. The fee shall accompany each closure plan submitted.

C. Permit holders providing closure-plan modifications for Type I, IA, II, and II-A facilities shall pay a \$660 closure-plan modification review fee. The fee shall accompany each modification submitted.

D. Permit holders providing closure-plan modifications for Type III or beneficial-use facilities shall pay a \$165 closure-plan modification review fee. The fee shall accompany each modification submitted.

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, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2051 (October 2003).

§529. Annual Monitoring and Maintenance Fee

A. An initial fee is charged for the processing of transporter notifications.

1. The fee shall be calculated by the following formula:

Initial fee per notification + Fee based on each vehicle owned by the transporter = Notification fee

2. No fee is assessed for modifying an existing notification form. The fee shall accompany the notification form at the time of its filing.

Initial fee	\$132
Fee Per Vehicle	\$ 33

B. - B.1. ...

a. \$7,920 for Type I facilities (including facilities that handle both industrial and nonindustrial waste);

b. \$1,980 for Type II facilities; and

c. \$660 for Type IA, II-A, III, and beneficial-use facilities.

2. ...

a. for industrial wastes (Type I facilities, except surface impoundments), \$0.79/ton;

b. for nonindustrial wastes (Type II facilities, except surface impoundments), \$0.20/ton for amounts exceeding 75,000 tons;

c. - e. ...

3. The maximum annual monitoring and maintenance fee per facility for Type I facilities (including facilities that handle both industrial and nonindustrial solid wastes) is \$105,600. The maximum fee per facility for Type II facilities is \$26,400. Surface impoundments, as noted above, are assessed only the base fee.

C. - 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, Solid

Waste Division, LR 19:187 (February 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2051 (October 2003).

Part IX. Water Quality

Chapter 13. Louisiana Water Pollution Control Fee System Regulation

§1309. Fee System

- A. - M. ...
- N. Other Fees

Noncommercial Activities	\$33/application
Commercial Activities	\$350/application

A.2.b. - H.2. ...
 AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), LR 29:690 (May 2003), LR 29:2052 (October 2003).

Part XI. Underground Storage Tanks

Chapter 3. Registration Requirements, Standards, and Fee Schedule

§307. Fee Schedule

- A. - B. ...

1. Fees are assessed according to the following schedule.

Permit Type	Amount
Gen-LAG11-Concrete/Asphalt	\$ 322
Gen-LAG33-Coastal	\$2,640
Gen-LAG47-Auto Repair/Dealers	\$ 264
Gen-LAG119-Concrete/Asphalt (SW)	\$ 387
Gen-LAG78-C&D Landfills	\$ 660
Gen-LAG89-Type D Truck Maintenance	\$ 660
Gen-LAG75-Exterior Vehicle Wash	\$ 264
Gen-LAG-Animal Waste	\$ 300
Gen-LAR-Baseline	\$ 99
Gen-LAG87-Bulk Terminals	\$ 322
Gen-LAR10-Construction	\$ 264
Gen-LAG67-Hydrostatic Test	\$ 300
Gen-LAG48-Light Commercial	\$ 345
Gen-LAR05-Multi-Sector	\$ 99
Gen-LAG38-Potable Water	\$ 345
Gen-LAG949-GW Remediation (SW)	\$ 990
Gen-LAG49-Sand and Gravel	\$ 660
Gen-LAG26-Territorial Seas	\$2,640
Gen-LAG30-UST Dewatering	\$ 99
Gen-LAG94-GW Remediation	\$ 990
Gen-LAG679-Hydrostatic Test (SW)	\$ 792
Gen-LAG759-Mobile Vehicle/Equipment Wash	\$ 317
Gen-LAG83- Petroleum UST Remediation	\$ 990
Gen-LAG839-Petroleum UST (SW)	\$2,640
Gen-LAG14-RR Classified Yards	\$ 322
Gen-LAG53-Sanitary Class I	\$ 99
Gen-LAG54-Sanitary Class II	\$ 264
Gen-LAG56-Sanitary Class III	\$ 495
Gen-LAG57-Sanitary Class IV	\$ 594
Gen-LAG309-UST Dewatering (SW)	\$ 851
Gen-LAG98-Vermilion Basin Sanitary	\$ 323

Fee Number	Annual Registration Fee	Amount
001	All registered UST systems	\$54
Annual Maintenance and Monitoring Fees		
002	UST systems containing any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under the department's Hazardous Waste Regulations, LAC 33:V.Subpart 1)	\$660
003	UST systems at federal facilities (all categories except USTs defined in Fee Number 002, which shall be assessed the higher fee)	\$158
004	UST systems containing petroleum products not meeting the definition of motor fuels	\$158
005	UST systems containing new or used motor oil (except USTs identified in LAC 33:XI.1101.C and D)	\$275

- B.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, 2014, 2195, and 2195.3 et seq.

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), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2400 (December 1999), LR 29:690 (May 2003), LR 29:2052 (October 2003).

Chapter 13. Certification Requirements for Persons Who Install, Repair, or Close Underground Storage Tank Systems

§1305. Categories of Certification and Requirements for Issuance and Renewal of Certificates

- A. - C. ...

D. Fees. The following fees are hereby established for certification and renewal:

1. examination fee for individual certification, \$132; and

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:626 (September 1988), LR 18:731 (July 1992), LR 21:798 (August 1995), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Water Resources, LR 24:326 (February 1998), amended by the Office of Management and Finance, Fiscal Services Division, LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2052 (October 2003).

Chapter 15. Water Quality Certification Procedures

§1507. Procedures for Issuance of Water Quality Certification

- A. - A.2. ...

a. A one-time processing fee will be assessed all applicants to help defray the costs of this expanded program. The fee schedule will be as follows.

2. certification renewal fee, \$132.

E. - H. ...

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, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), LR 29:691 (May 2003), LR 29:2052 (October 2003).

Part XV. Radiation Protection

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§579. Identification (I.D.) Cards for Radiographers or Radiographer Trainees

A. - A.3. ...

4. Any individual who wishes to replace his/her I.D. card shall submit to the Office of Environmental Services,

Permits Division a written request for a replacement I.D. card, stating the reason a replacement I.D. card is needed. A non-refundable fee of \$26 shall be paid to the department for each replacement of an I.D. card. The prescribed fee shall be submitted with the written request for a replacement I.D. card. The individual shall maintain a copy of the request in his/her possession while performing industrial radiographic operations until a replacement I.D. card is received from the department.

B. - E.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 29:36 (January 2003), LR 29:691 (May 2003), LR 2053 (October 2003).

Chapter 25. Fee Schedule

Appendix A

Appendix A Radiation Protection Program Fee Schedule			Application Fee	Annual Maintenance Fee
I. Radioactive Material Licensing				
A. Medical licenses:				
1. Therapy:				
	a. Teletherapy		733	733
	b. Brachytherapy		733	733
	2. Nuclear medicine diagnostic only		904	904
	3. Nuclear medicine diagnostic/therapy		970	970
	4. Nuclear pacemaker implantation		363	363
	5. Eye applicators		363	363
	6. In-vitro studies or radioimmunoassays or calibration sources		363	363
	7. Processing or manufacturing and distribution of radiopharmaceuticals		1,426	1,214
	8. Mobile nuclear medicine services		1,426	1,214
	9. "Broad scope" medical licenses		1,426	1,214
	10. Manufacturing of medical devices/sources		1,663	1,386
	11. Distribution of medical devices/sources		1,247	1,036
	12. All other medical licenses		403	403
B. Source material licenses:				
	1. For mining, milling, or processing activities, or utilization which results in concentration or redistribution of naturally occurring radioactive material		7,207	7,207
	2. For the concentration and recovery of uranium from phosphoric acid as "yellow cake" (powered solid)		3,604	3,604
	3. For the concentration of uranium from or in phosphoric acid		1,802	1,802
	4. All other specific "source material" licenses		363	363
C. Special nuclear material (SNM) licenses:				
	1. For use of SNM in sealed sources contained in devices used in measuring systems		554	554
	2. SNM used as calibration or reference sources		363	363
	3. All other licenses or use of SNM in quantities not sufficient to form a critical mass, except as in I.A.4, I.C.1, and 2		363	363
D. Industrial radioactive material licenses:				
	1. For processing or manufacturing for commercial distribution		7,128	5,366
	2. For industrial radiography operations performed in a shielded radiography installation(s) or permanently designated areas at the address listed in the license		1,214	957
	3. For industrial radiography operations performed at temporary jobsite(s) of the licensee		3,577	2,693
	4. For possession and use of radioactive materials in sealed sources for irradiation of materials where the source is not removed from the shield and is less than 10,000 Curies		1,802	904
	5. For possession and use of radioactive materials in sealed sources for irradiation of materials when the source is not removed from the shield and is greater than 10,000 Curies, or where the source is removed from the shield		3,577	1,789
	6. For distribution of items containing radioactive material		1,802	1,802

Appendix A Radiation Protection Program Fee Schedule			
		Application Fee	Annual Maintenance Fee
7.	Well-logging and subsurface tracer studies:		
	a. Collar markers, nails, etc. for orientation	363	363
equal to 500 mCi	b. Sealed sources less than 10 Curies and/or tracers less than or	1,076	1,076
than 500 mCi but less than 5 Curies	c. Sealed sources of 10 Curies or greater and/or tracers greater	1,802	1,802
Curies	d. Field flood studies and/or tracers equal to or greater than 5	2,706	2,706
8.	Operation of a nuclear laundry	7,141	3,577
9.	Industrial research and development of radioactive materials or products containing radioactive materials	904	904
10.	Academic research and/or instruction	733	733
11.	Licenses of broad scope:		
equal to or greater than 1 Curie	a. Academic, industrial, research and development, total activity	1,802	1,802
less than 1 Curie	b. Academic, industrial, research and development, total activity	1,076	1,076
12.	Gas chromatographs, sulfur analyzers, lead analyzers, or similar laboratory devices	363	363
13.	Calibration sources equal to or less than 1 Curie per source	363	363
14.	Level or density gauges	554	554
15.	Pipe wall thickness gauges	733	733
16.	Soil moisture and density gauges	554	554
17.	NORM decontamination/maintenance:		
license	a. at permanently designated areas at the location(s) listed in the	4,158	3,465
	b. at temporary jobsite(s) of the licensee	4,158	4,158
18.	Commercial NORM storage	3,465	3,465
19.	All other specific industrial licenses except as otherwise noted	733	733
20.	Commercial NORM treatment	16,632	13,860
E.	Radioactive waste disposal licenses:		
1.	Commercial waste disposal involving burial	935,550	935,550
liquid scintillation fluids	2. Commercial waste disposal involving incineration of vials containing	7,128	3,577
transfer	3. All other commercial waste disposal involving storage, packaging and/or	3,577	3,577
F.	Civil defense licenses	436	363
G.	Teletherapy service company license	1,802	1,802
H.	Consultant licenses:		
1.	No calibration sources	178	103
2.	Possession of calibration sources equal to or less than 500 mCi each	264	178
3.	Possession of calibration sources greater than 500 mCi	363	264
4.	Installation and/or servicing of medical afterloaders	482	416
II. Electronic Product Registration			
1.	Medical diagnostic X-ray (per registration)	117	117
2.	Medical therapeutic X-ray (per registration):		
	a. below 500 kVp	277	277
	b. 500 kVp to 1 MeV (including accelerator and Van de Graaf)	554	554
	c. 1 MeV to 10 MeV	832	832
	d. 10 MeV or greater	1,109	1,109
3.	Dental X-ray (per registration)	104	96
4.	Veterinary X-ray (per registration)	104	104
5.	Educational institution X-ray (teaching unit, per registration)	172	104
generators)	6. Industrial accelerator (includes Van de Graaf machines and neutron	554	554
7.	Industrial radiography (per registration)	277	277
8.	All other X-ray (per registration) except as otherwise noted	125	125
III. General Licenses			
A.	NORM (Wellhead fee per field shall not exceed \$2,079 per operator. Operators reporting contamination by field will be invoiced for all wellheads in the field. Operators reporting contamination by wellhead will be invoiced only for contaminated units.)		
1.	1-5 contaminated wellheads	139	139
2.	6-20 contaminated wellheads	693	693
3.	>20 contaminated wellheads	2,079	2,079
4.	Stripper wells-contaminated (\$693 maximum for strippers per field):	139	139
	a. 1 to 5 contaminated stripper wells	139	139
	b. > 5 contaminated stripper wells	693	693

Appendix A Radiation Protection Program Fee Schedule			Application Fee	Annual Maintenance Fee
5.	NORM locations (other than fields):			
	a. gas plants, pipeyards, chemical plant, refinery	416	416	416
	b. warehouses, pipeline, manufacturing plant, NORM equipment storage site, etc.	416	416	416
6.	Interim container storage per NORM Waste Management Plan of an approved location			1,386
7.	NORM location as otherwise defined in LAC 33:XV.1403 and not exempted by LAC 33:XV.1404, not included in III.A.1-6 of this Appendix	139		139
B.	Tritium sign	99		0
C.	All other general licenses which require registration	139		139
IV. Reciprocal Recognition				
The fee for reciprocal recognition of a license or registration from another state or the NRC is the annual fee of the applicable category. The fee covers activities in the state of Louisiana for one year from the date of receipt.				
V. Shielding Evaluation (per room)				
A.	Diagnostic	139		*
B.	Therapeutic (below 500 kVp)	209		*
C.	Therapeutic (500 kVp to 1 MeV)	343		*
D.	Therapeutic (1 MeV to 10 MeV)	482		*
E.	Therapeutic (10 MeV or greater)	1,043		*
F.	Industrial and industrial radiography	482		*
VI. Device, Product, or Sealed Source Evaluation				
A.	Device evaluation (each)	970		*
B.	Sealed source design evaluation (each)	627		*
C.	Update sheet	209		*
VII. Testing				
	Testing to determine qualifications of employees, per test administered	178		*
VIII. Nuclear Electric Generating Station				
	Located in Louisiana			393,360
	Located near Louisiana (Plume Exposure Pathway Emergency Planning Zone - includes area in Louisiana)			285,120
	Uranium Enrichment Facility			69,300
IX. La. Radiation Protection Program Laboratory Analysis Fees				
	Sample Type	Analysis	Unit Price	
A.	Air filters:			
	1. Particulate	Gross beta		77
	2. Charcoal cartridge	Gamma		218
		Gamma/I-131		218
B.	Milk	Gamma		231
		I-131		250
C.	Water	Gamma		250
		I-131		250
		H-3		92
D.	Sediment	Gamma		264
E.	Vegetation	Gamma		250
F.	Fish	Gamma		264
G.	Leak test	Gamma		218
		H-3		92
H.	NORM sample:			
	1. Soil	Gamma		231
	2. Produced water	Gamma		250
* Fees are charged one time				

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July 1992), repromulgated LR 18:956 (September 1992), amended LR 19:624 (May 1993), LR 21:792 (August 1995), repromulgated LR 21:944 (September 1995), amended by the Office of Environmental

Assessment, Environmental Planning Division, LR 26:2607 (November 2000), LR 29:691 (May 2003), LR 29:2053 (October 2003).

James H. Brent, Ph.D.
Assistant Secretary

0310#052

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Risk Evaluation/Corrective Action Program (RECAP) (LAC 33:I.1305 and 1307)(OS044)

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 had amended the Office of the Secretary regulations, LAC 33:I.1305 and 1307 and the RECAP document (Log #OS044).

The Rule will adopt by reference the Risk Evaluation/Corrective Action Program (RECAP) regulations that are being revised as part of this rulemaking package. The revisions will provide clarification, reorganization, and corrections to text, tables, figures, and appendices of the RECAP regulations that were promulgated in December 1998 and revised in June 2000. Clarifications of text enhance the reader's understanding of the content of the regulations. Correction to errors in the regulations and reorganization of text will improve the RECAP regulations and help the regulated community in understanding of the regulations. Some of these changes include: text omission due to redundancy and text rearranged or added for clarification purposes; soil intervals redefined; conveyance notification requirements clarified; additional guidance on Area of Investigation (AOI) identification and estimation of the AOI constituent concentration; additional guidance on identification of groundwater Point of Compliance (POC) and Point of Exposure (POE); change in procedures for establishing a site-specific background concentration; new section on identification of toxicity values and demonstrating compliance with Screening Standards (SS) and RECAP Standards (RS); added land owner notification requirements; added air RS under Management Option 2 (MO-2) and Management Option 3 (MO-3) for comparison to air data; revision of SS and MO-1 RS based on updated toxicity values and default exposure parameters; revised figures to be consistent with text; added guidance on indoor air sampling; additional guidance on groundwater monitoring requirements; addition of Texas Natural Resource Conservation Commission (TNRCC) Method 1005 for Total Petroleum Hydrocarbon-Gasoline Range Organics (TPH-GRO), Total Petroleum Hydrocarbon-Diesel Range Organics (TPH-DRO), and Total Petroleum Hydrocarbon-Oil Range Organics (TPH-ORO); addition of TNRCC Method 1006 for TPH fractions; additional guidance on additivity for TPH; added list of target organs for TPH; added table of critical effects/target organs for the Constituent-of-Concern (COC) listed in Tables I-3; added Management Option 1 (MO-1), Management Option 2 (MO-2), and Management Option 3 (MO-3) guidance on development and application of RS; and added guidance for development of RS for air, sediment, surface water, and biota. The RECAP revisions will help ensure that a consistent method based on sound scientific principles is used for addressing site contamination and will continue to serve as a standard tool to assess impacts to soil, ground

water, surface water, and air. The basis and rationale for this Rule are to clarify, reorganize, and correct the current RECAP regulations. The RECAP revisions will serve to establish uniformity for submitters in the program to minimize the time and money necessary to identify corrective action levels for constituents of concern at a contaminated site. This should encourage voluntary and expeditious remediation.

This Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 13. Risk Evaluation/Corrective Action Program

§1305. Applicability

A. - B. ...

C. This Chapter shall not apply to:

1. current spills that:
 - a. do not require notification under LAC 33:I.Chapter 39;
 - b. are remediated as soon as practicable, but not more than 30 days, after learning of the discharge; and
 - c. are remediated in a manner that will ensure protection of human health and the environment;
2. spills that create emergency conditions, as defined in LAC 33:I.3905, but do not exceed a reportable quantity, provided conditions specified in Subparagraphs C.1.b-c of this Section are met;
3. spills solely to air; and
4. current spills over the reportable quantity that require notification under LAC 33:I.Chapter 39, that are remediated promptly in a manner protective of human health and the environment, provided that:
 - a. the spill is remediated as soon as practicable, but not more than 30 days, after learning of the discharge;
 - b. notification is made in accordance with LAC 33:I.Chapter 39; and
 - c. the written report required by LAC 33:I.Chapter 39, or a subsequent follow-up report, documents that the material has been removed to a level that will ensure protection of human health and the environment.
 - i. Such documentation may include confirmatory sampling, use of organic vapor monitoring devices or, where appropriate (such as where the spill is of a dark material and/or is very small), visual confirmation.
 - ii. Upon review of the reported cleanup documentation, the department may require a complete RECAP evaluation if the department determines that the actions taken do not adequately ensure protection of human health and the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:2244 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 29:2056 (October 2003).

§1307. Adoption by Reference

A. The document entitled, "Louisiana Department of Environmental Quality Risk Evaluation/Corrective Action Program (RECAP)," dated October 20, 2003, is hereby adopted and incorporated herein in its entirety. The RECAP document is available for purchase or inspection from 8 a.m. until 4:30 p.m., Monday through Friday, from the department's Office of Environmental Assessment, Environmental Planning Division. For RECAP document availability at other locations, contact the department's Environmental Planning Division. The RECAP document may also be reviewed on the Internet at www.deq.state.la.us.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:2244 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 26:2441 (November 2000), LR 29:2057 (October 2003).

James H. Brent, Ph.D.
Assistant Secretary

0310#051

RULE

**Office of the Governor
Associated Branch Pilots Board of Examiners
of Bar Pilots for the Port of New Orleans**

Retirement and Drug and Alcohol Policy
(LAC 46:LXXVI.Chapters 11-16)

In accordance with the Administrative Procedure Act, R.S. 49:953, and R.S. 34:941, the Board of Examiners of Bar Pilots for the Port of New Orleans, has amended its existing Rules respecting its drug and alcohol policy. The board further intends to add a provision requiring compulsory retirement at age 68.

The Louisiana Legislature formed the Board of Examiners of Bar Pilots for the Port of New Orleans for the purpose of establishing rules, regulations and requirements for holding examinations for all applicants who have registered with them for the posts of bar pilots; to establish standards for recommendation by the Board of Examiners of Bar Pilots for the Port of New Orleans to the governor of the state of Louisiana for appointment as bar pilots who, pursuant to R.S. 34:941 et seq., have the duty to pilot sea-going vessels into and out of the entrances of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waterways of the Gulf of Mexico; to establish procedures in conformity with the requirements of the Administrative Procedure Act for investigating and conducting hearings relative to incidents and/or complaints of pilot misconduct; to establish certain minimum standards of conduct, including conduct relative to neglect of duty, drunkenness, carelessness, habitual intemperance, substance abuse, incompetency, unreasonable absence from duty, and general bad conduct of bar pilots; to provide a uniform set of Rules and regulations for the proper and safe pilotage of sea-going vessels upon the waterways under the jurisdiction of the

Associated Branch Pilots for the Port of New Orleans; and to insure compliance by the Board of Examiners with the Public Meetings Law. These rules and regulations are enacted to accomplish those purposes required by the legislature and to protect the public by ensuring available, safe and competent pilotage of vessels on the waterways under the jurisdiction of this Board of Examiners.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXVI. Steamship Pilots

Subpart 3. Bar Pilots of the Port of New Orleans

Chapter 11. General Provisions

§1101. Authority

A. As mandated by R.S. 34:945.C.1, these rules and regulations are issued by the Board of Examiners of Bar Pilots for the Port of New Orleans in accordance with the Administrative Procedure Act under R.S. 49:950 et seq. for the purpose of adopting rules, regulations and requirements for holding examinations for all applicants who have registered with them for the posts of bar pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:350 (March 2003), amended LR 29:2057 (October 2003).

§1102. Purpose

A. The purposes of these rules and regulations are as follows:

1. to establish standards for recommendation by the Board of Examiners of Bar Pilots for the Port of New Orleans to the governor of the State of Louisiana for appointment as bar pilots who, pursuant to R.S. 34:941 et seq., have the duty to pilot sea-going vessels into and out of the entrances of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waterways of the Gulf of Mexico.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:350 (March 2003), amended LR 29:2057 (October 2003).

§1103. Definitions

A. The following terms as used in these rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Procedure Act Cthe Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

Application Cthe written application supplied by the Board of Examiners to an applicant who desires to become a bar pilot for the Port of New Orleans.

Board of Examiners or *Board* Cthe Board of Examiners of Bar Pilots for the Port of New Orleans, established in R.S. 34:942.

Bar Pilot or *Pilot* Ca bar pilot for the Port of New Orleans as designated in R.S. 34:943.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003), amended LR 29:2057 (October 2003).

§1104. Severability

A. If any provision of these rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these rules and regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003), amended LR 29:2058 (October 2003).

§1105. Effective Date

A. These rules and regulations shall be in full force and effective 90 days after final publication in the *Louisiana Register*. All bar pilots and bar pilot candidates shall be provided with a copy of these rules and regulations as well as any amendments, after the rules and regulations are adopted by the Board of Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003), amended LR 29:2058 (October 2003).

§1106. Qualifications of Pilots

A. No person shall be recommended to the governor for appointment as a Pilot unless the applicant:

1. is a qualified elector of the state of Louisiana;
2. has served at least 12 months next preceding the date of his application in a pilot boat at the mouth of the Mississippi River or other entrances into the Gulf of Mexico or other outside waters from the Port of New Orleans;
3. has successfully passed the examination given by the Board of Examiners, as required by R.S. 34:948;
4. owns or has made a binding legal agreement to acquired as owner or part owner of at least one decked pilot boat of not less than 50 tons burden, which is used and employed exclusively as a pilot boat, as required by R.S. 34:930;
5. is a high school graduate or, in lieu thereof, holds a third mate's license;
6. has served at least 1 year at sea on a sea-going vessel of not less than 1,600 gross tons in the deck department;
7. has successfully passed a physical examination which in the judgment of the Board of Examiners includes those standards, such as vision, color perception and hearing tests, to perform duties as a bar pilot;
8. is of good moral character; and
9. shall have completed satisfactorily an apprenticeship program which culminates in a cubbing period of not less than 9 months duration handling vessels over the routes of the bar pilots under the supervision of not less than 25 licensed state bar pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003), amended LR 29:2058 (October 2003).

§1107. Minimum Requirements

A. The Board of Examiners shall review, and if found satisfactory, approve the apprenticeship program of the applicant, the minimum requirements of which shall be as

follows: the applicant must set forth in detail the names of the vessels handled, dates handled, the direction of travel, size, draft, and type of vessel, and the name of the supervising bar pilot. During the period of apprenticeship the applicant shall handle vessels on not less than 650 occasions, two-thirds of which shall be at night.

B. The Board of Examiners will review the number and times of vessels handled, the size, draft, and type of vessels and the conditions under which the applicant has performed the apprenticeship in order to determine if the applicant has had sufficient exposure as to enable the Board of Examiners to make a determination of the applicant's competence and ability to perform the duties of a bar pilot.

C. The Board of Examiners shall prescribe the form of the application and required documentary proof of the applicant's eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003), amended LR 29:2058 (October 2003).

§1108. Bond

A. No person shall assume the position of bar pilot until he shall have first taken the oath prescribed by law and has furnished a bond in favor of the governor in the amount of \$2,000 conditioned on the faithful performance of his duties imposed upon him as a bar pilot. This bond shall be approved by the Board of Commissioners of the Port of New Orleans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003), amended LR 29:2058 (October 2003).

§1109. Compulsory Retirement

A. A state commissioned bar pilot for the Port of New Orleans shall be required to retire on or before the date of his/her 68th birthday. It shall be the pilot's responsibility to insure that his/her pension begins in a timely fashion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:2058 (October 2003).

Chapter 13. Pilots

Subchapter A. General Provisions

§1301. Authority

A. As mandated by R.S. 34:945.C.1, these rules and regulations are issued in accordance with the Administrative Procedure Act under R.S. 49:950 et seq. for the purpose of establishing minimum standards of conduct for bar pilots and for the proper and safe pilotage of sea-going vessels into and out of the entrance of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with outside waters of the Gulf of Mexico, including the entrance of the New Orleans Tidewater Channel at the western shore of the Chandeleur Sound off Point Chicot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003), amended LR 29:2058 (October 2003).

§1302. Purpose

A. The purposes of these rules and regulations are as follows:

1. to establish certain minimum standards of conduct, including conduct relative to neglect of duty, drunkenness, carelessness, habitual intemperance, substance abuse, incompetency, unreasonable absence from duty, and general bad conduct of bar pilots;

2. to provide a uniform set of rules and regulations for the proper and safe pilotage of sea-going vessels upon the waterways referred to in §1101.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:352 (March 2003), amended LR 29:2059 (October 2003).

§1303. Definitions

A. The following terms as used in these Rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Procedure Act the Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

Bar Pilot or *Pilot* a bar pilot for the Port of New Orleans, as designated in RS. 34:943.

Board of Examiners or *Board* the Board of Examiners of Bar Pilots for the Port of New Orleans, established in R.S. 34:942.

Services of a Bar Pilot any advice or assistance with respect to pilotage by the commissioned bar pilot or by his authorized representative, including but not limited to advice concerning weather, channel conditions, or other navigational conditions.

Waterways the entrance into and out of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waters of the Gulf of Mexico, including the entrance of the New Orleans Tidewater Channel at the western shore of the Chandeleur sound off Point Chicot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:352 (March 2003), amended LR 29:2059 (October 2003).

§1304. Investigations and Enforcement

A. All complaints reported to the board shall be considered for investigation. A complaint under the provisions of §1304.A-F is defined as:

1. any written complaint involving a bar pilot commissioned for the Port of New Orleans;

2. any reported incident involving a bar pilot commissioned for the Port of New Orleans while piloting a vessel; or

3. any other event involving a bar pilot commissioned for the Port of New Orleans that, in the discretion of any member of the board, justifies further investigation.

B. The board may appoint an investigating officer to investigate the complaint and report to the board.

C. If the board, or its designated investigating officer, is of the opinion that the complaint, if true, is sufficient to justify a further investigation, it shall appoint an investigating officer, or authorize its designated investigating officer to conduct a full investigation of the complaint.

D. Once authorized under §1304.C, the investigating officer, who may be an active or retired member of the Associated Branch Pilots of the Port of New Orleans, Louisiana, and who may be a member of the board, shall make a full and complete investigation of the complaint. He shall be assisted by an attorney, named as independent prosecutor by the board. In the event that the investigating officer, as contemplated by either §1304.B or §1304.C, is an active member of the board, he shall be recused from any participation in the decision of the case.

E. If the investigating officer is of the opinion that the conduct in question is not sufficient to justify further proceedings, he shall make a reasoned report to the board, which may accept or reject his recommendation.

F. If the investigating officer is of the opinion that the conduct complained of is sufficient to justify further proceedings and the board has accepted his recommendations, or if the board has rejected his recommendation to dismiss the complaint, he shall give notice to the respondent, by registered mail, of the facts or conduct on which the complaint is based, and offer the respondent an opportunity to show compliance with the laws or regulations allegedly violated. If, in the opinion of the investigating officer, the respondent is able to demonstrate such compliance, then the investigating officer shall make a report to the board, recommending to the board that the complaint be dismissed. The board may accept or reject the recommendation of the investigating officer.

G. If the respondent is unable to demonstrate such compliance, or if the board rejects the recommendation of the investigating officer to dismiss the complaint, the investigating officer shall initiate proceedings by filing a written administrative complaint with the board, which shall be signed by the investigating officer.

H. The administrative complaint shall name the accused bar pilot as respondent in the proceedings. It shall also set forth, in separately numbered paragraphs, the following:

1. a concise statement of material facts and matters alleged and to be proven by the investigating officer, including the facts giving rise to the board's jurisdiction over the respondent;

2. the facts constituting legal cause under law for administrative action against the respondent;

3. the statutory or regulatory provisions alleged to have been violated by respondent.

I. The administrative complaint shall conclude with a request for the administrative sanction sought by the investigating officer, and shall state the name, address, and telephone number of administrative complaint counsel engaged by the board to present the case at the evidentiary hearing before the board.

J. The board may either accept or reject the administrative complaint.

K. If it rejects the administrative complaint, the case may be either dismissed or referred back to the investigating officer for further investigation.

L. If the board accepts the administrative complaint, the board shall docket the administrative complaint and schedule the administrative complaint for hearing before the board not less than 45 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or

appropriate to protect the public interest or upon motion of the investigating officer or respondent pursuant to a showing of proper grounds. In the event the respondent's commission as a bar pilot for the port of New Orleans has been suspended by the board pending hearing, the evidentiary hearing on the administrative complaint shall be noticed and scheduled not more than 45 days after the filing of the administrative complaint.

M. A written notice of the administrative complaint and the time, date and place of the scheduled hearing thereon shall be served upon the respondent by registered, return receipt requested mail, as well as by regular first class mail, at the most current address for the respondent reflected in the official records of the board, or by personal delivery of the administrative complaint to the respondent. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held, and shall be accompanied by a certified copy of the administrative complaint.

N. The case shall be prosecuted by the independent prosecutor, also referred to administrative complaint counsel, who shall handle the case to its conclusion. He shall be entirely independent of the authority of the board in going forward with the matter, and may conduct such further investigation, and prepare and try the case in such manner as he may deem appropriate.

O. Within 15 days of service of the administrative complaint, or such longer time as the board, on motion of the respondent, may permit, the respondent may answer the administrative complaint, admitting or denying each of the separate allegations of fact and law set forth therein. Any matters admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that the respondent does not file a response to the administrative complaint, all matters asserted therein shall be deemed denied.

P. Any respondent may be represented in an adjudication proceeding before the board by an attorney at law duly admitted to practice in the state of Louisiana. Upon receipt of service of an administrative complaint pursuant to these rules, or thereafter, a respondent who is represented by legal counsel with respect to the proceeding shall, personally or through such counsel, give written notice to the board of the name, address, and telephone number of such counsel. Following receipt of proper notice of such representation, all further notices, administrative complaints, subpoenas or other process related to the proceeding shall be served on respondent through his or her designated counsel of record.

Q. All pleadings, motions or other papers permitted or required to be filed with the board in connection with a pending adjudication proceeding shall be filed by personal delivery at or by mail to the office of the board and shall by the same method of delivery be concurrently served upon administrative complaint counsel designated by the administrative complaint, if filed by or on behalf of the respondent, or upon respondent, through counsel of record, if any, if filed by administrative complaint counsel.

1. All such pleadings, motions or other papers shall be submitted on plain white letter-size (8 1/2" x 11") bond, with margins of at least one inch on all sides, and double spaced except as to quotations and other matters customarily single spaced, shall bear the caption and docket number of the case

as it appears on the administrative complaint, and shall include the certificate of the attorney or person making the filing that service of a copy of the same has been effected in the manner prescribed by Subsection A of this Section.

2. The board may refuse to accept for filing any pleading, motion or other paper not conforming to the requirements of this Section.

R. Motions for continuance of hearing, for dismissal of the proceeding and all other pre-hearing motions shall be filed not later than 30 days following service of the administrative complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each pre-hearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the board may order, the investigating officer, through administrative complaint counsel, may file a memorandum in opposition to or otherwise setting forth the investigating officer's position with respect to the motion.

S.1. A motion for continuance of hearing shall be filed within the delay prescribed by §1304.R of these Rules, provided that the board may accept the filing of a motion for continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of pre-hearing motions.

2. A scheduled hearing may be continued by the board only upon a showing by respondent or administrative complaint counsel that there are substantial legitimate grounds that the hearing should be continued, balancing the right of the respondent to a reasonable opportunity to prepare and present a defense to the complaint and the board's responsibility to protect the public health, welfare and safety. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the board will not ordinarily grant a motion to continue a hearing that has been previously continued upon motion of the same party.

3. If an initial motion for continuance is not opposed, it may be granted by the presiding officer.

T.1. Any pre-hearing motion, other than an unopposed initial motion for continuance of hearing which may be granted by the chairman of the board, shall be referred for decision to the board member designated by the board as the presiding officer of the board designated with respect to the proceeding for ruling. The presiding officer, who shall be a member of the board designated as presiding officer by the board in each matter before the board, in his discretion, may refer any pre-hearing motion to the board for disposition, and any party aggrieved by the decision of a presiding officer on a pre-hearing motion may request that the motion be reconsidered by the entire panel.

2. Pre-hearing motions shall ordinarily be ruled upon by the presiding officer or the board, as the case may be, on the papers filed, without hearing. On the written request of respondent or of administrative complaint counsel, however, and on demonstration that there are good grounds therefor, the presiding officer may grant opportunity for hearing by oral argument, on any pre-hearing motion.

U.1. Upon request of the respondent or administrative complaint counsel and compliance with the requirements of

this section, any board member 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.

2. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examination, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the board with reference to the value of time employed and the degree of learning or skill required.

V.1. In any case of adjudication noticed and docketed for hearing, counsel for respondent and administrative complaint counsel may agree, or the presiding officer may require, that a pre-hearing conference be held among such counsel, or together with the board's independent counsel appointed pursuant to §1304.W hereof, for the purpose of simplifying the issues for hearing and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

2. Following such pre-hearing conference the parties shall, and without such conference the parties may by agreement, agree in writing on a pre-hearing stipulation which should include:

- a. a brief statement by administrative complaint counsel as to what such counsel expects the evidence to be presented against respondent to show;
- b. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;
- c. a list of the witnesses to be called by administrative complaint counsel and by respondent, together with a brief general statement of the nature of the testimony each such witness is expected to give;
- d. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents or issues; and
- e. an estimate of the time required for the hearing.

W.1. Unless otherwise requested by the respondent, adjudication hearings, being the hearing conducted on the merits of the administrative complaint, shall be conducted in closed session.

2. At an adjudication hearing, opportunity shall be afforded to administrative complaint counsel and respondent to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for full and true disclosure of the facts and disposition of the administrative complaint.

3. Unless stipulation is made between the parties and approved by the board, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings.

4. During evidentiary hearing, the presiding officer shall rule upon all evidentiary objections and other procedural questions, but in his discretion may consult with the entire panel in executive session. At any such hearing, the board may be assisted by legal counsel retained by the board for such purpose, who is independent of administrative complaint counsel and who has not participated in the investigation or prosecution of the case. If the board or panel is attended by such counsel, the presiding officer may delegate to such counsel ruling on evidentiary objections and other procedural issues raised during the hearing.

5. The record in a case of adjudication shall include:

- a. the administrative complaint and notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery, and all pleadings, motions, and intermediate rulings;
- b. evidence received or considered at the hearing;
- c. a statement of matters officially noticed except matter so obvious that statement of them would serve no useful purpose;
- d. offers of proof, objections, and rulings thereon;
- e. proposed findings and exceptions, if any;
- f. the decision, opinion, report or other disposition of the case made by the board.

6. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

X.1. In an adjudication hearing, the board may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The board or panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

2. All evidence, including records and documents in the possession of the board which administrative complaint counsel desires the board to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts or by incorporation by reference, the materials so incorporated shall be available for examination by the respondent before being received in evidence.

3. Notice may be taken of judicially cognizable facts and generally recognized technical or scientific facts within the board's knowledge. Parties shall be notified either before or during the hearing of the material noticed or sought by a party to be noticed, and they shall be afforded an opportunity to contest the material so noticed. The board's experience, technical competence and knowledge may be utilized in the evaluation of the evidence.

4. Any member of the board serving as presiding officer in an adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place of continued hearings, fix the time for the filing of briefs and other documents, if they are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

5. Except as otherwise governed by the provision of these rules, adjudication hearings before the board shall be governed by the Louisiana Code of Evidence, insofar as the same may be applied.

Y. The board may make informal disposition, by default, consent order, agreement, settlement or otherwise of any adjudication pending before it. A consent order shall be considered by the board only upon the recommendation of the investigating officer.

Z.1. The final decision of the board in an adjudication proceeding shall, if adverse to the respondent, and otherwise may be, in writing, shall include findings of fact and conclusions of law, and shall be signed by the presiding officer of the hearing panel on behalf and in the name of the board.

2. Upon issuance of a final decision, a certified copy thereof shall promptly be served upon respondent's counsel of record, or upon respondent personally in the absence of counsel, in the same manner of service prescribed with respect to service of administrative complaints.

AA.1. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within ten days from service of the decision on respondent or on its own motion. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed by §1304.Q and shall set forth the grounds upon which such motion is based, as provided by Subsection B of this Section.

2. The board may grant rehearing, reopening, or reconsideration if it is shown that:

- a. the decision is clearly contrary to the law and the evidence;
- b. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;
- c. other issues not previously considered ought to be examined in order properly to dispose of the matter; or
- d. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

BB. Pursuant to R.S. 34:945(C)(3), the Board of Examiners shall have the authority to impose a fine of not more than \$500 on any bar pilot, to reprimand or remove from a vessel any bar pilot, or to recommend to the governor that the commission of any bar pilot be suspended or revoked, if after a hearing conducted in accordance with these Rules and regulations and the administrative procedure act a bar pilot is found in violation of any rule or regulation adopted by the board of examiners.

CC. The authority established in these rules is in addition to and in no way limits the authority of the board to seek to remove or to remove a pilot from a vessel pursuant to the provisions of R.S. 34: 947 and RS. 49:961(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:352 (March 2003), amended LR 29:2059 (October 2003).

§1305. Severability

A. If any provision of these rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these rules and regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:355 (March 2003), amended LR 29:2062 (October 2003).

§1306. Effective Date

A. These rules and regulations shall be in full force and effective 90 days after final publication in the *Louisiana Register*. All bar pilots and bar pilot candidates shall be provided with a copy of these rules and regulations, as well as any amendments, after the rules and regulations are adopted by the board of examiners.

AUTHORITY NOTE: Promulgated in accordance with R. S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:355 (March 2003), amended LR 29:2062 (October 2003).

Chapter 14. Standards of Conduct: Proper and Safe Pilotage

§1401. Adoption of Inland Navigational Rules

A. For those waters on which the Inland Rules apply within the jurisdiction of the bar pilots, the Board of Examiners has adopted, by reference and in its entirety, the Inland Navigational Rules at 33 U.S.C. Section 2001 et seq. The Board of Examiners also adopted the navigation safety standards set forth in Title 33 CFR part 164(p). All bar pilots and bar pilot applicants shall be subject to these Inland Navigational Rules and safety standards as adopted herein by reference.

Title 33 CFR Part 164(p)

(p) The person directing the movement of the vessel sets the vessel's speed with consideration for

- (1) The prevailing visibility and weather conditions;
- (2) The proximity of the vessel to fixed shore and marine structures;
- (3) The tendency of the vessel underway to squat and suffer impairment of maneuverability when there is small underkeel clearance;
- (4) The comparative proportions of the vessel and the channel;
- (5) The density of marine traffic;
- (6) The damage that might be caused by the vessel's wake;
- (7) The strength and direction of the current; and
- (8) Any local vessel speed limit;

NOTE: These rules CFR 110.195 and 164.402 have not been adopted but should be reviewed by all pilots and applicants.

Title 33 CFR 110.195

(a) The Anchorage Grounds. Unless otherwise specified, all anchorage widths are measured from the average low water plane (ALWP).

(1) Pilottown Anchorage. An area 5.2 miles in length along the right descending bank of the river from mile 1.5 to mile 6.7 above Head of Passes, extending in width to 1600 feet from the left descending bank of the river.

Title 33 CFR 161.402

(c) Navigation of South and Southwest Passes.

(1) No vessel, except small craft and towboats and tugs without tows, shall enter either South Pass or southwest Pass

from the Gulf until after any descending vessel which has approached within two and one-half (2 1/2) miles of the outer end of the jetties and visible to the ascending vessel shall have passed to sea.

(2) No vessel having a speed of less than 10 mph shall enter South Pass from the Gulf when the state of the Mississippi Rive exceeds 15 feet on the Carrollton Gage at New Orleans. This paragraph does not apply when Southwest Pass is closed to navigation.

(3) No vessel, except small craft and towboats and tugs without tows, ascending South Pass shall pass Franks Crossing Light until after a descending vessel shall have passed Depot Point Light.

(4) No vessel, except small craft and towboats and tugs without tows, shall enter the channel at the head of South Pass until after an ascending vessel which has reached Franks Crossing Light shall have passed through into the river.

(5) When navigating South Pass during periods of darkness no tow shall consist of more than one towed vessel other than small craft, and during daylight hours no tow shall consist of more than two towed vessels other than small craft. Tows may be in any formation, When towing on a hawser, the hawser shall be as short as practicable to provide full control at all times.

(6) When towing in Southwest Pass during periods of darkness no tow shall consist of more than two towed vessels other than small craft, and during daylight hours no tow shall consist of more than three towed vessels other than small craft.

AUTHORITY NOTE: Promulgated in accordance with R. S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:355 (March 2003), amended LR 29:2062 (October 2003).

§1402. Ships Required to take Pilots

A. All ships and vessels inward or outward bound throughout the entrances of the Mississippi River or other inland waterway connecting the Port of New Orleans with the Gulf of Mexico, or other outside waters, except those of 100 tons or less lawfully engaged in the coasting trade of the United States, shall take a bar pilot when one is offered; and any ship or vessel refusing or failing to take a pilot shall be liable to the pilot thus offering for pilotage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003), amended LR 29:2063 (October 2003).

§1403. Pilots' Duty of Remain on Board Ship until Crossing Bar

A. When boarding an outward bound ship or vessel at the boarding stations bar pilots shall remain on board the ship until she crosses the bar, unless permission is given by the master for the pilot to absent himself from the ship or vessel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003), amended LR 29:2063 (October 2003).

§1404. Acting as Pilot without License; Penalty

A. No person who is not commissioned a bar pilot shall board any ship or vessel required to take a bar pilot, for the purpose of piloting, or to pilot or attempt to pilot the same; and no person or pilot shall board any such ship or vessel for the purpose of piloting, except from the pilot boats on the bar pilot stations. Whoever violates the provisions of this Section shall be fined not less than \$1,500 nor more than

\$5,000, or may be imprisoned for not more than 6 months, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003), amended LR 29:2063 (October 2003).

§1405. Pilot's Duty to Exhibit License

A. Whoever offers to pilot a ship or other vessel shall, if required, exhibit to the commander thereof this identification card as a bar pilot, attested to by the chairman of the board of examiners; and if he refuses or neglects to do so, he shall not be entitled to any remuneration for any service he may render as pilot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003), amended LR 29:2063 (October 2003).

§1406. Employing Pilot without Licenses; Liability of Vessel, Master or Owner

A. When a vessel, inward or outward bound to or from the Port of New Orleans employs as a pilot a person who is not a state commissioned bar pilot, when a bar pilot offers his services, the vessel, her captain and owners, shall be liable for a civil penalty of and shall forfeit to the state of Louisiana the sum of \$15,000 with privilege on the vessel, to be recovered before any court of competent jurisdiction. An action for forfeiture under this Section may be brought by the attorney general of Louisiana or by the Associated Branch Pilots of the Port of New Orleans. If the Associated Branch Pilots of the Port of New Orleans obtains a judgment hereunder, the court shall include in its judgment a reasonable attorney's fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003), amended LR 29:2063 (October 2003).

§1407. Employing Pilot without a State Commission; Penalties

A. No master, owner, or agent of a vessel required under R.S. 34:953 to take a state commissioned bar pilot shall, when a state commissioned bar pilot offers his services, employ as a pilot a person who is not a state commissioned bar pilot.

B. Whoever violated this Section shall be subject to a fine of not less than \$1,500 nor more than \$5,000, or imprisoned for not more than 6 months, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003), amended LR 29:2063 (October 2003).

§1408. Offering of Services

A. As used in this Subpart, reference to the offering of a bar pilot or the offering of services by a bar pilot shall mean any offering of any advice or assistance with respect to pilotage by the commissioned bar pilot or by his authorized representative, including but not limited to advice concerning weather, channel conditions, and other navigational conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003), amended LR 29:2063 (October 2003).

§1409. Prohibition of Interest of Members of Board of Commissioners of Port of New Orleans, in Pilot Boat or Pilotage

A. The members of the Board of Commissioners of the Port of New Orleans shall not be interested, directly or indirectly, in any bar pilot boat or pilotage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003), amended LR 29:2064 (October 2003).

§1410. Report by Pilot

A. In any case where a vessel being piloted by a bar pilot shall go aground, or shall collide with any object, or shall meet with any casualty, which causes injury to persons or damage to property, the pilot shall, as soon as possible report such incident to the board. The pilot shall also complete a written incident report form provided by the board within 24 hours after the incident.

B. The board, with or without complaint made against said pilot, shall investigate the incident.

C. The pilot shall make a complete report to the board within 10 days after the incident. This report may either be an oral or a written report as the board deems necessary.

D. These Rules shall apply to any bar pilot engaged in piloting within the operating territory as defined by R.S. 34:941 et seq., whether the vessel be subject to compulsory pilotage or elective pilotage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003), amended LR 29:2064 (October 2003).

§1411. Pilots Duty to Report

A. Pilots, when notified, shall report in person to the board at the time and place so designated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003), amended LR 29:2064 (October 2003).

§1412. Pilots Summoned to Testify

A. Any bar pilot summoned to testify before the board shall appear in accordance with such summons and shall make answer under oath to any question put to him, touching any matter connected with the pilot's service or of the pilot grounds over which he is commissioned to pilot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003), amended LR 29:2064 (October 2003).

Chapter 15. Drug And Alcohol Policy

§1501. Application

A. The Board of Examiners of Bar Pilots for the Port of New Orleans, Louisiana (hereinafter "Board") adopted the following rules and regulations relating to a drug and alcohol abuse policy applicable to all state licensed bar pilots pursuant to the provisions of R.S. 34:941 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003), amended LR 29:2064 (October 2003).

§1502. Statement of Findings and Purposes

A. The board of has always had a strong commitment to the safety of the public. In order to carry out its mission, the board has established this policy regarding drug and alcohol abuse. The board's goal will continue to be one of establishing and maintaining a work environment that is free from the effects of alcohol and drug abuse.

B. While the board has no intention of intruding into the private lives of bar pilots, the board does expect bar pilots to report for work in a condition capable of performing their duties. The board recognizes that off-the-job, as well as on-the-job, involvement with alcohol and drugs can have an impact on the work place and on a bar pilot's ability to perform his duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003), amended LR 29:2064 (October 2003).

§1503. Bar Pilots' Assistance Program

A. The board recognizes that the Associated Branch Pilots for the Port of New Orleans established a Bar Pilot's Assistance Program (BPAP) to provide help for any bar pilot whose personal alcohol or drug abuse problems may seriously affect his or her ability to function on the job, at home and in society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003), amended LR 29:2064 (October 2003).

§1504. Definitions

A. As used in this Chapter:

Alcoholic Beverage Any fluid, or solid capable of being converted into fluid, suitable for human consumption, which contains ethanol.

Drug Call controlled dangerous substances as defined in R.S. 40:961.7. and R.S. 40:964.

Non-Prescription Medication Any medication sold or dispensed without a prescription that is not a drug as defined in *drug* above.

Prescription Medication Any drug as defined in 1504A.*Drug* distributed by the authorization of a licensed physician as defined in R.S. 40:961.31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:358 (March 2003), amended LR 29:2064 (October 2003).

§1505. Prohibitions and Requirements of the Policy

A. A bar pilot who is under the influence of alcohol or drugs, or who possesses or uses alcohol or drugs on the job, has the potential for interfering with his own safety as well as that of the ship he is piloting and other vessels in the area, property and personnel. Consistent with existing board practices, such conditions shall be probable cause for disciplinary action up to and including recommendation for revocation of a bar pilot commission.

B.1. Off-the-job drug or alcohol abuse use that could adversely affect a bar pilot's job performance or could jeopardize the safety of others shall be proper cause for

administrative or disciplinary action up to and including recommendation for revocation of a bar pilot's commission.

2. Bar pilots who are arrested for off-the-job drug or alcohol activity may be considered to be in violation of this policy. In deciding what action to take, the board will take into consideration the nature of the charges, the bar pilot's overall job performance as a pilot, and other factors relative to the impact of the bar pilot's arrest upon the conduct of bar pilotage and the safety threat posed to the public by the specific activity.

3. The abuse of non-prescription medication by a bar pilot also has the potential for interfering with his own safety as well as that of others. A bar pilot shall not abuse non-prescription medication which may impair his or her ability to perform his duties as a bar pilot. Abuse of non-prescription medication by a bar pilot which impairs his or her ability to perform his duty may subject the pilot to administrative or disciplinary action. A bar pilot shall not use non-prescription medication if it impairs his competence as a pilot in the discharge of his duties.

C.1. A bar pilot shall be free of use of any drug as defined in §1504.A.*Drug*, but excluding prescription medication as defined in §1504.A.*Prescription Medication*, so long as such use of prescription medication does not impair the competence of the pilot to discharge his duties.

2. Bar pilots shall report to the chairman of the board the use of any drug, as defined in §1504.A.*Drug*, including prescription medication.

D. A bar pilot who voluntarily requests assistance in dealing with personal drug or alcohol abuse under the Associated Branch Pilots BPAP program may do so without the board taking action for his voluntary participation. Volunteering to participate in the BPAP will not prevent administrative or disciplinary action for a violation of this policy which has already occurred or which may occur while in the program.

E.1. Narcotics or any other controlled dangerous substance made illegal by the laws of the United States or the state of Louisiana shall not be brought aboard or caused to be brought aboard any vessel no matter by whom owned, or property owned or leased by the Associated Branch Pilots.

2. Persons, or property, coming aboard any such vessel or property will be subject to inspection.

3. The board will cooperate fully with appropriate law enforcement agencies by reporting information with respect to the violation of laws regarding illegal substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:358 (March 2003), amended LR 29:2064 (October 2003).

§1506. Drug Testing

A. Testing. All bar pilots shall be subject to testing for the presence of any drug, as defined in §1504.A.*Drug*, above.

B. Types of Testing

1. All bar pilots shall submit to reasonable scientific testing for drugs when directed by the board. All procedures and activities conducted in connection with such testing

shall comply with R.S. 49:1001-1015, except that certain terms contained therein are redefined because there is no employer-employee relationship. §1001(7) shall read "Pilot" Any person who holds a commission from the Governor of the State of Louisiana as an Associated Branch Pilot for the Port of New Orleans. The word "pilot" shall be used wherever the terms "employee" is used in §1001-1015. §1001(8) shall read "board" which is the Board of Examiners of Bar Pilots for the Port of New Orleans, Louisiana. The word "board" shall be used whenever the term "employer" is used in §1001-1015.

2. A bar pilot shall be required to submit a urine specimen to be tested for the presence of drugs under the following circumstances:

a. prior to recommendation for appointment, as a part of the physical exam required in these rules and regulations;

b. after recommendation, whenever the pilot is required by the board to undergo a physical examination;

c. upon written sworn complaint signed by the complainant in accordance with Chapter 16 of the rules and regulations of the Board of Review of Bar Pilots for the Port of New Orleans;

d. when the pilot is reasonably suspected of using drugs in violation of this policy;

e. at random at the discretion of the board; and

f. when the pilot is determined to be directly involved in a marine casualty or accident during the course of his activities as a pilot that results in:

i. one or more deaths;

ii. injury to any person which requires professional medical treatment beyond first aid;

iii. damage to property in excess of \$100,000; or

iv. actual or constructive loss of any vessel.

C. The board may designate a testing agency to perform any scientific test(s) necessary to detect the presence of drugs or their metabolites in a pilot's system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:358 (March 2003), amended LR 29:2065 (October 2003).

§1507. Alcohol Testing

A. The Board of Examiners may require a pilot to submit to a blood alcohol test under the following circumstances:

1. upon written complaint signed by the complainant in accordance with Chapter 16 of the rules and regulations of the Board of Review of Bar Pilots of the Port of New Orleans;

2. when there exists reasonable suspicion that a pilot is performing his duties while under the influence of alcohol; or

3. when the pilot is determined to be directly involved in a marine casualty or accident of the type described in §1506.B.2.f.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:359 (March 2003), amended LR 29:2065 (October 2003).

§1508. Violations of the Policy

A. Any pilot found to be in violation of this policy may be reprimanded, fined, evaluated, and treated for violations of this policy and have his commission suspended or revoked as provided by R.S. 34:945 and 962.

B. Any bar pilot reasonably suspected of bringing on board any vessel, no matter by whom owned, or property owned or leased by the Associated Branch Pilots for the Port of New Orleans, or causing to bring on board a vessel or property owned or leased by the Associated Branch Pilots for the Port of New Orleans, any narcotic or any other controlled dangerous substance made illegal by the laws of the United States or the state of Louisiana will be subject to disciplinary action either by the board or, upon recommendation of the board, by the governor of the state of Louisiana.

C. A pilot shall be suspended from performing the duties of a pilot pending a hearing pursuant to R.S. 34:945 and 962 if:

- 1. he tests positive for any drug covered by §1504.A.Drug;
- 2. he uses any drug in violation of §1505.C;
- 3. he refuses to submit to reasonable scientific testing for drugs, fails to cooperate fully with the testing procedures, or intentionally tries to alter the test results;
- 4. he test positive for alcohol; or
- 5. he refuses to submit to a blood alcohol test, fails to cooperate fully with the testing procedure, or intentionally tries to alter the test results.

D. Any pilot who is required to undergo evaluation or treatment for alcoholism or drug abuse shall do so at his own personal expense and responsibility. The physician, as well as the evaluation and treatment facility, must be approved by the board.

E. Any pilot who believes he would be in violation of these Rules if he were to perform his duties as a bar pilot is obligated to remove himself from duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:359 (March 2003), amended LR 29:2066 (October 2003).

§1509. Test Results

A. All drug test results shall be reviewed by a medical review officer in accordance with R.S. 49:1007.

B. Any pilot, confirmed positive, upon his written request, shall have the right of access, within seven working days of actual notice to him of his test results, to records relating to his drug tests and any records relating to the results of any relevant certification, review, or suspension/revocation-of-certification proceedings.

C. The results of the drug testing conducted pursuant to this policy and all information, interviews, reports, statements and memoranda relating to the drug testing shall, in accordance with R.S. 49:1012, shall be confidential and disclosed only to the Board of Examiners and the pilot tested, except that:

- 1. the Board of Examiners may report the results to the governor, the president of the Associated Branch Pilots for the Port of New Orleans, the United States Coast Guard; and

2. in the event that the Board of Examiners determines that a hearing is required pursuant to R.S. 34:947 or 962, there shall be no requirement of confidentiality in connection with such hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:359 (March 2003), amended LR 29:2066 (October 2003).

Chapter 16. Administrative Policy

§1601. Application

A. The purpose of this section is to ensure compliance by the Board of Examiners of Bar Pilots for the Port of New Orleans with the provisions of the Louisiana Public Meeting Law and the records maintenance requirements of the provisions of R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:359 (March 2003), amended LR 29:2066 (October 2003).

§1602. Meetings of Examiners

A. All meetings and notices thereof of the Board of Examiners shall be conducted in accordance of the Open Meetings Law (R.S. 42:4 et seq.). The board shall meet at least once each quarter and meetings shall be called in accordance with R.S. 42:7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:359 (March 2003), amended LR 29:2066 (October 2003).

§1603. Record Keeping

A. The Board of Examiners shall maintain records and conduct its hearings in accordance with R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:359 (March 2003), amended LR 29:2066 (October 2003).

Thomas L. Ittman
Chairman

0310#011

RULE

**Office of the Governor
Real Estate Commission**

Post Licensing and Continuing Education Vendors
(LAC 46:LXVII.5515, 5519 and 5545)

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., the Real Estate Commission has amended LAC 46:LXVII.5515, 5519 and 5545. The amendments are housekeeping in nature and (1) serve to better define distance education course approval procedures/delivery methods; and (2) reduce the minimum credit requirement for post licensing courses to 3-hour increments so as to make them more conducive to the overall 30-hour requirement.

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 3 hours in length and require passage of an examination on course contents as conditions for receiving a post licensing certificate.

2. ...

3. Approved schools and vendors shall not incorporate post licensing instruction and hours with prelicensing education instruction and hours.

4. - 5. ...

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 26:60 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 29:2067 (October 2003).

§5519. Post Licensing and Continuing Education Course Work by Correspondence or Other Distance Learning Methods

A. The commission may approve continuing and post licensing courses offered through correspondence or other distance education delivery methods. As used in this Chapter, a correspondence or distance education/ learning course delivery method is defined as a course of study 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 may be required by the commission.

B. Approved education vendors shall apply for and receive approval of correspondence or other distance learning study course(s) prior to any public offering. Each correspondence/distance education course for which credit is granted toward post licensing and/or continuing education requirements must be approved by the commission for course content and by the Association of Real Estate License Law Officials (ARELLO) for course delivery standards. The vendor must apply for and receive course approval from the commission prior to applying for ARELLO certification.

C. Passage of an examination on course content is a requirement for all correspondence or other distance learning courses. Each correspondence course application shall be accompanied by the following items:

1. applicable filing fees;
2. complete information on proposed course, including title, course description, length of course, outline, and a copy of the required test.

D. Applications for approval of correspondence courses shall comply with the following where applicable.

1. Written Correspondence Courses
 - a. A workbook consisting of a minimum of 20 typed pages, not smaller than 8 1/2" x 11" in size, per two

hours of continuing education correspondence study credit or a workbook consisting of a minimum of 40 typed pages, not smaller than 8 1/2" x 11" in size, per four hours of post licensing education is required. If the course meets only the minimum of pages, the type cannot be larger than 12 point. Minimum standards require that paragraphs may be indented not more than 10 spaces and a maximum of 1 line of space may appear between paragraphs. Charts and graphs are not to be included in the required minimum page total. The top margin of the page cannot exceed 12", the bottom margin 12", and the side margin 1". The commission reserves the right to approve an offering which marginally meets the minimum page requirement. Such approval will be based on a determination that the time period required to complete the course exceeds the credit hours requested based on the technical nature of the subject matter.

2. Audio/Visual Correspondence Courses

a. Videotaped material may be submitted for approval as a complete course offering or in conjunction with written correspondence. The applicant shall provide a complete written transcript of any videotaped material submitted for approval.

b. Audio only courses shall be formatted in segments consisting of taped lecture of at least two hours for continuing education purposes or at least three hours for post licensing purposes. The applicant shall submit a written transcript of the taped lecture with each request for audio approval.

3. Computer Generated Correspondence Courses

a. Computer generated correspondence courses will be considered for approval provided the applicant submits course materials in the exact format to be offered for education credit.

E. Every correspondence or distance learning course for post licensing or continuing education shall require students to complete a test consisting of a minimum of 20 multiple choice questions with four possible choices (a, b, c and d) for each two hours of continuing education credit or a minimum of 30 multiple choice questions with four possible choices (a, b, c and d) for each three hours of post licensing credit. The test a student submits for grading shall include the following statement.

I certify that I have personally completed this course and test .

Student's Name

Date

F. All courses submitted for approval shall be in the exact format in which they will be sold to licensees for post licensing or continuing education credit.

G. No changes will be made to approved correspondence course material without the prior written approval of the commission.

H. Education vendors shall:

1. have the student's name, Social Security number, address and payment prior to the student receiving the course;

2. not grade any written assignment or examination if it is presented for grading before the time frame for course completion has been reached;

3. not grade any test which does not contain the signed certification required by Subsection C, above;

4. certify students as successfully completing a course only if the student completes any required written assignments and passes the required examination on course content;

5. issue certificates containing the following information to students completing education by correspondence:

- a. complete name of approved vendor and LREC vendor code;
- b. name and social security number of student completing course;
- c. specific course title;
- d. number of hours of education received;
- e. date of course completion;
- f. signature of verifier of course completion;
- g. indication that student successfully completed examination on course content;
- h. correspondence study completion noted with the notation, "correspondence" or "C".

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 26:60 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 29:2067 (October 2003).

§5545. Minimum Length of Courses

A. Courses of instruction for continuing education purposes will not be approved by the commission if the total instruction time is less than two hours. Courses of instruction for post licensing purposes will not be approved by the commission if the total instruction time is less than three hours. Time devoted to breakfasts, luncheons, dinners or other refreshments shall not be counted as instruction time.

B. Credit shall not be given for any classroom hour consisting of less than 50 minutes of instruction and/or study. A classroom hour is defined as 60 minutes, of which 50 minutes are instruction. The prescribed number of classroom hours may include time devoted to examinations if a required part of the course. Vendors shall not grant credit to any student for completing more than eight hours of instruction in one calendar day.

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 26:60 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 29:2068 (October 2003).

Julius C. Willie
Executive Director

0310#058

RULE

**Office of the Governor
Board of River Port Pilot Commissioners**

River Port Pilots
(LAC 46:LXXVI.Chapters 31-36)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 34:991(B)(3), the Board of River Port Pilot Commissioners hereby promulgates Rules and

repeals and reenacts its Rules. The Rules restate existing Rules and are reenacted for the purpose of codification. New Rules are in the public's interest and will promote public safety by enhancing additional education qualifications for River Port Pilots. The Rules are in the public's interest and promote public safety by establishing: age restrictions, a requirement to perform marine incident investigations, a requirement for pilots to be certified after an absence, and a method for the public to file complaints against pilots. The board has conducted several meetings to receive comments from interested parties and undertook some revisions. The purpose of this rulemaking is to put the Rules in a proper format for codification as follows.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part. LXXVI. River Pilots

Subpart 4. Board of River Port Pilot Commissioners

Chapter 31. General Provisions

§3103. Definitions

A. The following terms shall have the following meaning as used in these Rules.

Applicant Cone who submits an application to become a River Port Pilot.

Apprentice Cone who has been selected to become a River Port Pilot pending successful completion of the apprenticeship program.

Board Cthe Board of River Port Pilot Commissioners as defined in R.S. 34:991.

Candidate Cone whose application has been certified by the board.

Commission Cthe appointment by the governor authorizing one to perform the duties of a River Port Pilot.

Commissioner Ca member of the Board of River Port Pilots Commissioners for the Port of New Orleans as appointed and serving in accordance with state law.

Conviction Cfound guilty by judgment or by plea and includes cases of deferred adjudication (no contest, adjudication withheld, etc.) or where the court requires a person to attend classes, make contributions of time or money, receive treatment, submit to any manner of probation or supervision, or forgo appeal of a trial court finding. Expunged convictions must be reported unless the expungement was based upon a showing that the court's earlier conviction was in error.

Drug Call controlled dangerous substances as defined in R.S. 40:961(7).

Marine Incident Ca personal injury, loss of life, discharge of pollution, collision and/or allision, wave wash or suction resulting in an injury or damage, or hard grounding in which the vessel is damaged or needs assistance to be re-floated.

Pilot CRiver Port Pilots as defined in R.S. 34:992.

Prescription Medication Cmedication which can only be distributed by the authorization of a licensed physician as defined in R.S. 40:961(30).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2068 (October 2003).

§3103. Board of River Pilot Commissioners for the Port of New Orleans

A. The duties of the board are established pursuant to R.S. 34: 991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003).

§3105. Application

A. Any person wishing to submit an application to become an apprentice candidate must submit a written request for an application to the commission at its address. The commission's current address is:

Board of River Port Pilot Commissioners
c/o Application Request
P. O. Box 848
Belle Chasse, LA 70037

B. All applications to become an apprentice candidate must be in writing, must be signed by the applicant, and presented to the secretary of the board. All applications must be notarized and accompanied by satisfactory evidence of compliance of the board's requirements.

C. The board shall maintain the application of applicants in its files for a period of two years from January 1 of the year the application was dated. All applicants are required to update and maintain their application and to re-file the application as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003).

Chapter 32. Licensing, Qualifications, and Apprenticeship

§3201. General Qualifications

A. Applicant must be of good moral character. Evidence of a clear police record will be considered, but the board reserves the right to examine other sources of information as to the applicant's character.

B. Applicant has been a voter of the state of Louisiana continuously for at least two years before submitting an application to become an apprentice candidate.

C. The applicant must not have reached his fortieth birthday prior to the first day of balloting on apprentices by the River Port Pilots.

D. The applicant must possess a high school diploma, or equivalent.

E. A person applying for an appointment under this section shall not have been convicted of a felony offense involving either drugs or the personal consumption of alcohol in the 60 months prior to the date of application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003).

§3202. Licensing Qualifications

A. Before being accepted as a candidate to become a River Port Pilot, each applicant must meet the below listed requirements.

1. Each applicant must hold a United States Coast Guard First Class Pilot License of Steam or Motor Vessel of any gross tons for the Mississippi River from Southport Mile 104.7 to the Head of Passes Mile 0.0 and for the Inner Harbor Navigation Canal (Industrial Canal) from the Mississippi River to Lake Pontchartrain, and for the Intracoastal Waterway (ICW) from the intersection of the Industrial Canal and the ICW to and including Michoud Canal, and for the Mississippi River Gulf Outlet, from the intersection of the ICW to Mile 28.3, the present location of Beacon #78. In the event the Inner Harbor Navigation Canal is closed and or navigation on the canal is severely restricted, the board in its discretion may waive the requirement of a First Class Pilot License on all or part of the Inner Harbor Navigation Canal.

2. Commencing July 1, 2006, the applicant must have held the license described in §3202.A.1 for a period of one year prior to submitting an application to become an apprentice candidate.

3. Each applicant must meet one of the following requirements:

a. a United States Coast Guard Masters' License of Steam or Motor Vessels of any gross tons upon Inland Waters, Rivers or Western Rivers; or

b. a United States Coast Guard Second Mate's License (or any upgrade thereof) of Steam or Motor Vessels of any gross tons upon oceans; or

c. a United States Coast Guard Third Mate's License of Steam or Motor Vessels of any gross tons upon oceans, and a Master's License of Steam or Motor Vessels of not less than 1,600 gross tons upon Inland Waters, Rivers or Western Rivers. The applicant, as a condition of the apprenticeship, must upgrade the Master's License of Steam or Motor Vessels of not less than 1,600 gross tons upon Inland Waters, Rivers or Western Rivers to a Masters' License of Steam or Motor Vessels of any gross tons upon Inland Waters, Rivers or Western Rivers prior to being commissioned as a River Port Pilot; or

d. a bachelors degree or diploma granted by a college or university accredited by the American Association of Colleges and Secondary Schools, and the applicant must hold a Master's License of Steam or Motor Vessels of not less than 1,600 gross tons upon Inland Waters, Rivers or Western Rivers. The applicant, as a condition of the apprenticeship, must upgrade the Master's License of Steam or Motor Vessels of not less than 1,600 gross tons upon Inland Waters, Rivers or Western Rivers to a Masters' License of Steam or Motor Vessels of any gross tons upon Inland Waters, Rivers or Western Rivers prior to being commissioned as a River Port Pilot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003).

§3205. Education Qualifications

A. In addition to the requirements described herein the applicant must complete the following educational requirements. To successfully complete the educational requirements the applicant must attend a college or university accredited by an accreditation association or society approved by the board, and the applicant must have a

minimum grade point average of "2.0" on a "4.0" system, in non-remedial courses.

1. Applicants graduating from high school or receiving a high school equivalent after 5/01/95 will be required to successfully complete 30 credit hours.

2. Applicants graduating from high school or receiving a high school equivalent after 1/01/96 will be required to successfully complete 60 credit hours.

3. Applicants graduating from high school or receiving a high school equivalent after 1/01/97 will be required to successfully complete 90 credit hours.

4. Applicants graduating from high school or receiving a high school equivalent after 1/01/98 will be required to acquire a bachelors degree or diploma.

5. After July 1, 2006 all applicants must have a bachelors degree or diploma.

B. Applicants shall document the aforementioned requirements by providing the board with a transcript of the mandatory educational requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003).

§3207. Physical Qualifications

A. The applicant, when requested, must be examined by a physician, clinic or group of physicians of the board's choosing to determine the applicant's physical condition. The examination report must reflect to the board's satisfaction that the applicant's physical condition is satisfactory and commensurate with the work and responsibilities of the duties of a pilot, and will enable him to safely perform the duties of pilotage. The board shall have no responsibilities for the examinations or their results. The applicant submitting to such examinations will hold the board harmless from any responsibility for any injury or loss, including attorneys' fees and the costs of defense, incurred as a result of the examination or the reliance by the board or any others on the results of such examination.

B. The applicant, when requested, shall submit to an examination by a mental health professional or group composed of such mental health professionals of the board's choosing. The report of this examination must reflect, to the board's satisfaction, that the petitioner's mental condition and aptitude is satisfactory and commensurate with the work and responsibilities of the duties of a pilot, and will enable him to safely perform the duties of pilotage. The board shall have no responsibility for the examinations or their results. The applicant submitting to such examinations will hold the board harmless from any responsibility for any injury or loss, including attorneys' fees and the costs of defense, incurred as a result of the examination or the reliance by the board or any others on the results of such examination.

C. The applicants shall submit to drug screening in the same manner as pilots and apprentices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003).

§3209. Apprenticeship

A. The apprentice must serve a minimum of 12 months of apprenticeship in his proposed calling, handling deep

draft vessel over the operating territory of the River Port Pilots under the tutelage of not less than 40 commissioned River Port Pilots. The apprentice must set forth in detail the names of the vessels handled, dates handled, draft, tonnage, between what points so moved, and the names of the supervising commissioned River Port Pilots. No apprentice shall be permitted to be examined for commissioning who has not made at least 18 trips on the operating territory of the River Port Pilots between Pilottown and Southport during each of the 12 months of his apprenticeship and serve at least one week of each month of the apprenticeship engaged in harbor shifting, docking, undocking and piloting on the Mississippi River Gulf Outlet. The apprenticeship work must be certified by the board during the apprenticeship program. The board reserves the right to substitute work requirements and to require satisfactory completion of additional trips, extended the apprenticeship, or terminate the apprenticeship when deemed necessary.

B. The board of commissioners shall examine those apprentices who have complied with all the requirements. The apprentices will be examined as to their knowledge of pilotage and their proficiency and capability to serve as commissioned River Port Pilots. This examination shall be given in such manner and shall take such form as the board may, in its discretion from time to time, elect.

C. The board of commissioners shall certify to the governor for his consideration for appointments to commissions as River Port Pilots those apprentices who satisfactorily complete all requirements established by state law and these Rules and who complete and pass the examination given by the board. Should the apprentice fail the examination, the board, at its discretion, may terminate the apprenticeship, or may designate additional apprenticeship requirements to be satisfied by the apprentice before he may again petition the board for examination.

D. The apprentice shall submit to drug screening in the same manner as pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003).

§3211. Age Restrictions

A. A pilot shall be required to resign his pilot commission in the calendar year in which the pilot attains the age of 70. This provision shall take effect on July 1, 2004.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003).

Chapter 33. Duties

§3301. Restricted Duties Guidelines

A. The board has established the following guidelines, which shall be adhered to whenever possible. The failure to strictly adhere to these guidelines will not subject the pilot to disciplinary action.

1.a. After being commissioned a River Port Pilot by the governor of Louisiana, the newly commissioned pilot shall be allowed to pilot the following vessels in the first four months subsequent to the issuance of the pilot's commission:

- i. vessels up to 35 feet in draft;
 - ii. vessel up to 50,000 deadweight tons;
 - iii. vessels up to 700 feet in length.
- b. After the newly commissioned pilot has served the first four months as a pilot subject to the restrictions of this Section, the board shall evaluate the newly commissioned pilot with regard to his ability and competence to handle the above classes of vessels. Upon such examination, the board shall determine whether, and if so, for what time period, the newly commissioned pilot shall continue to be subject to any or all of the restrictions of the Section before being reexamined.

2.a. The newly commissioned pilot shall be allowed to pilot the following vessels in the second four months subsequent to the issuance of the pilot's commission:

- i. vessels up to 40 feet in draft;
- ii. vessels up to 75,000 deadweight tons;
- iii. vessels up to 800 feet in length.

b. After the newly commissioned pilot has served the second four months as a pilot subject to the restrictions of this Section, the board shall evaluate the newly commissioned pilot with regard to his ability and competence to handle the above classes of vessels. Upon such examination, the board shall determine whether, and if so, for what time period, the newly commissioned pilot shall continue to be subject to any or all of the restrictions of the Section before being reexamined.

3. The newly commissioned pilot shall be allowed to pilot the following vessels in the third four months subsequent to the issuance of the pilot's commission:

- a. vessels up to 45 feet in draft;
- b. vessels up to 100,000 deadweight tons;
- c. vessels up to 900 feet in length.

4. The newly commissioned River Port Pilot shall be prohibited from piloting the following vessel during the first 12 months he holds a commission as a River Port Pilot:

- a. passenger vessels regardless of draft, tonnage or length;
- b. tank vessels with explosive, combustible, petroleum, or chemical cargo aboard, regardless of the draft, tonnage or length. Gas-free tank vessels are not subject to this prohibition.

5. After the newly commissioned pilot has served the third four months as a pilot subject to the restrictions of this Section, the board shall evaluate the newly commissioned pilot with regard to his ability and competence to handle the above classes of vessels. Upon such examination, the board shall determine whether, and if so, for what time period, the newly commissioned pilot shall continue to be subject to any or all of the restrictions of this Section before being reexamined.

6. For the first year as a pilot, no persons are allowed on the bridge with the pilot with the exception of the bridge team, U.S. Coast Guard representatives, government officials, and the vessel's crew.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003).

Chapter 34. Drug and Alcohol Policy

§3401. Drug Use

A. A pilot shall be free of use of any *drug* as defined in §3101, but excluding *prescription medication* as defined in §3101 so long as use of such *prescription medication* does not impair the physical competence of the pilot to discharge his duties.

B. The board shall designate a testing agency to perform scientific test or tests to screen for the presence of drugs. These tests shall be conducted at random, post incident, and for reasonable suspicion at the discretion of the board.

C. All pilots shall submit to reasonable scientific testing and screening for drugs when directed by the board.

D. The results of drug testing and screening shall be confidential and disclosed only to the board and the pilot tested, except that:

1. the board may report the results to the governor, the Board of Directors of the Crescent River Port Pilot Association and the United States Coast Guard;

2. in the event that the board determines that a hearing is required there shall be no requirement of confidentiality in connection with the hearing.

E. Any pilot testing positive for drugs or any residual thereof, shall be suspended from performing the duties of a pilot pending a hearing.

F. Any pilot who refuses to submit to reasonable scientific testing or screening for drugs, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results shall be suspended from performing the duties of a pilot pending a hearing. Such refusal shall be considered as a positive test.

G. Any pilot found to be in violation of this Section may be reprimanded, fined, evaluated, and/or treated for drug use and/or have his commission suspended or revoked.

H. Any pilot who is required to undergo evaluation and/or treatment for drug use shall do so at his own personal expense and responsibility; the physician, as well as the evaluation and treatment facility, must be approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2071 (October 2003).

§3403. Alcohol Use

A. No pilot shall consume any alcohol of any nature whatsoever within six hours before, or during, the performance of his pilotage duties.

B. No pilot shall perform his duties as a River Port Pilot if his blood alcohol content is 0.04 or greater.

C. Any pilot who believes he would be in violation of any of these Rules if he were to perform his duties as a River Port Pilot is obligated to remove himself from duty. The pilot is the absolute insurer of his or her state of mind, physical abilities, and overall well being.

D. The board may request a pilot to submit himself to a blood alcohol test upon complaint or reasonable suspicion that a pilot is performing his duties as a River Port Pilot while under the influence of alcohol.

E. Any pilot who refuses to submit to reasonable scientific testing or screening for alcohol, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results shall be suspended from performing the duties of a pilot pending a hearing. Such refusal to cooperate will be considered as a positive test.

F. Any pilot found to be in violation of this Section may be reprimanded, fined, evaluated and/or treated for alcoholism and/or have his commission suspended or revoked.

G. Any pilot who is required to undergo evaluation and/or treatment for alcoholism shall do so at his own personal expense and responsibility; the physician, as well as the evaluation and treatment facility must be approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2071 (October 2003).

Chapter 35. Continuing Education

§3501. Continuing Professional Education

A. Every pilot seeking to maintain a pilot's commission must attend 40 hours of professional education classes and programs every 5 years. In addition the pilot must attend a ship simulator training program every five years. This requirement is effective December 31, 2000.

B. The professional education classes and programs approved by the board include but are not limited to:

1. electronic ship simulation training;
2. small scale ship simulation training;
3. ARPA training;
4. VTS/VTIS simulator training;
5. bridge resource management training for pilots;
6. Any other course or program that the board deems appropriate.

C. Any pilot who fails to attend the required professional education classes or programs may be reprimanded, fined, and/or suspended until the pilot complies with this Section.

D. It shall be the responsibility of the pilot to file with the board proof that the pilot has attended the required professional education classes and programs.

E. It shall be the responsibility of the pilot to attend the professional education classes and programs approved by the board.

F. The board, for good cause shown, may grant a waiver or extend the time for a pilot to complete the continuing professional education requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2072 (October 2003).

Chapter 36. Investigation, Competence, Complaints and Criminal Convictions

§3601. Marine Incident Investigation

A. Any pilot piloting a vessel involved or allegedly involved in a marine incident shall as soon as practical notify the board of the incident by telephone however said notice must occur within four hours of the incident.

B. The pilot shall provide the board a Marine Incident Report on the form provided by the board within two days after the marine incident was first reported.

C. The pilot shall make himself available to the board and cooperate with the board during the board's investigation of the marine incident.

D. The pilot shall provide the board a detailed written statement of the marine incident if requested by the board. The report shall be provided to the board with 10 days of the board's request.

E. A pilot failing to comply with these regulations may be reprimanded, fined and /or suspended.

F. After its investigation of the Marine Incident, the board may render a findings and conclusion. The findings and conclusions is solely and exclusively the opinion of the board relative to the conduct of the pilot and is not intended to be introduced as evidence in legal proceeding. Pursuant to R.S. 34:1005 all communications between the pilot and the commission are deemed confidential, and the findings and conclusions of the board shall not be deemed discoverable or relevant in any civil proceeding.

G. The board may, under the procedure herein set out, examine into such cases of dereliction of duty of a pilot as come to their attention, and on the basis of such examination make recommendations to the governor relative to the pilot's commission. The pilot may elect to consent to such corrective or remedial steps as may be suggested by the board under the circumstances, waiving executive review. All violations of the regulations of any governmental agency by a pilot shall come within the purview of this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2072 (October 2003).

§3603. Competence

A. Any pilot who has not performed his duties as a pilot for a period of 12 months shall be required to report said absence to the board. Prior to returning to the duties and responsibilities of a pilot, the pilot must satisfy the return to duty requirements set forth by the board.

B. Any pilot or apprentice who for any reason becomes physically or mentally incompetent to perform the duties of a pilot is required to immediately notify the board of the their condition.

C. The pilot is the absolute insurer of his state of mind, physical abilities, and overall well being.

D. Any pilot, who lacks the competency to perform the duties of a pilot, shall be suspended from performing the duties of a pilot pending a hearing.

E. Any pilot found to be incompetent may be evaluated and/or have his commission suspended or revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2072 (October 2003).

§3605. Complaints

A. Any person having cause to file a complaint against a pilot may file such complaint with the board.

B. The complaint must be sworn and in writing. The complaint may be sent to the board at its address. The commission's current address is:

Board of River Port Pilot Commissioners
c/o Pilot Complaint
P.O. Box 848
Belle Chasse, LA 70037

C. The board shall investigate all sworn complaints and take all appropriate action based on the nature of the complaint.

D. The board shall review all anonymous complaints and shall investigate those complaints, which have merit and will take all appropriate action based on the nature of the complaint.

E. Any person wishing to make an anonymous complaint against a pilot may do so by calling the commission at its telephone number or by forwarding an anonymous letter to the above address. The commission's current telephone number is (504) 392-5015.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2072 (October 2003).

§3607. Criminal Convictions

A. Any pilot or apprentice convicted of the following must immediately notify the board:

- 1. a conviction of a felony;
- 2. a conviction of any offense in which the use of drugs or alcohol is involved.

B. The board shall conduct a hearing to review the competency of any pilot who has been convicted of any offense described in §3607.A and the board in its discretion may find the pilot by virtue of the conviction incompetent to perform his pilot duties.

C. Any pilot or apprentice who fails to comply with these regulations may be reprimanded, fined, and/or suspended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2073 (October 2003).

Captain Scott Loga
President

0310#094

RULE

**Office of the Governor
Real Estate Commission**

Prelicensing Courses
(LAC 46:LXVII.5305)

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., the Louisiana Real Estate Commission has amended LAC 46:LXVII.5305. The amendments are housekeeping in

nature and serve to better define the distance learning course delivery method and procedures for course approval.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

Chapter 53. Real Estate Schools

§5305. Prelicensing Courses Course Content and Delivery Method

A. – C. ...

D. In addition to traditional in-class prelicensing course offerings, the commission may approve prelicense courses offered through distance education delivery methods. As used in this Chapter, a distance education or distance learning 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 prelicensing courses through distance education/distance learning delivery methods that are internet-based instruction. Each course must meet the following standards:

1. – 6. ...

E. Each distance education course for which credit is granted toward prelicensing educational requirements must be approved by the commission for course content and by the Association of Real Estate License Law Officials (ARELLO) for delivery standards. The school must apply for and receive course content approval from the commission prior to applying for ARELLO certification.

F. Loss of ARELLO certification for a prelicensing course offered via internet-based education will automatically suspend commission approval of the course.

G. – I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1432 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, Louisiana Real Estate Commission, LR 28:486 (March 2002), amended LR 29:2073 (October 2003).

Julius C. Willie
Executive Director

0310#057

RULE

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

Hearings on Disputes under the Area of Responsibility
(LAC 46:V.4714)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 32:Chapters 4A and 4B, the Office of the Governor, Used Motor Vehicle and Parts Commission, the Used Motor Vehicle and Parts Commission, has adopted rules and regulations governing hearings on disputes under the Area of Responsibility Law, in accordance with R.S. 32:776.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 47. Hearing Procedures

**§4714. Hearings on Disputes under the Area of
Responsibility**

A. When disputes arise under the Area of Responsibility Law by the filing of an objection by an affected dealer pursuant to R.S. 32:773.2(D) and (F), and when no party has been cited for a violation, the commission shall not be responsible for the presentation of any evidence of the factors set forth in R.S. 32:773(4)(a) and R.S.32:773.2F(5). Each party is required to set forth evidence in support of its contentions.

B. Each party shall be responsible for its own respective costs; however, the losing party or parties shall pay the costs of the commission, including the court reporter's fees, any per diem rate, and mileage for any commissioner attending a hearing as a special fixing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 29:2074 (October 2003).

John M. Torrance
Director

0310#036

RULE

**Department of Health and Hospitals
Board of Dentistry**

Requirements for Applicants for Licensure by Credentials;
Laser Requirements, Procedures, and Approval of Training
(LAC 46:XXXIII.1301-1303)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry hereby amends LAC 46:XXXIII., 1301-1303. No preamble has been prepared.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Profession

Chapter 13. Dental Laser and Air Abrasion Utilization

§1301. Requirements

A. A laser capable of the removal of hard or soft tissue may be employed in the treatment of a dental patient only by a licensed dentist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:334 (March 1993), amended LR 29:2074 (October 2003).

§1302. Procedures

A. American National Standards Institute standards for laser safety must be followed.

B. Use of the laser must be in accordance with scientifically accepted treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:334 (March 1993), amended LR 29:2074 (October 2003).

§1303. Approval of Training

A. Prior to commencing use of the laser for dental purposes, a dentist must obtain appropriate training for the laser being utilized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:334 (March 1993), amended LR 29:2074 (October 2003).

C. Barry Ogden
Executive Director

0310#023

RULE

**Department of Health and Hospitals
Board of Examiners of Psychologists**

Licenses (LAC 46:LXIII.901)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists has adopted LAC 46:LXIII.901.E.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Chapter 9. Licenses

§901. Renewal of Lapsed Licenses

A. - D. ...

E. A lapsed license shall be reinstated as of the date all applicable requirements of R.S. 37:2357 have been met. However, the board retains the right to reinstate licenses retroactively in unusual circumstances as specified in the policy and procedures of the LSBEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:489 (August 1980), amended LR 10:795 (October 1984), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:2074 (October 2003).

Brenda C. Ward
Executive Director

0310#015

RULE

**Department of Health and Hospitals
Board of Examiners of Psychologists**

Reciprocity
(LAC 46:LXIII.201)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq, the Board of Examiners of Psychologists has amended LAC 46:LXIII.201.A.2 and adopted LAC 46:LXIII.201A.3.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Chapter 2. Reciprocity

§201. Licensure of Psychologists through Reciprocity

A. - A.1.e. ...

2. he/she is a psychologist licensed in another state or territory of the U.S. or a Canadian province who has met the requirements for and holds a current Certificate of Professional Qualification in Psychology (CPQ) issued by the Association of State and Provincial Psychology Boards (ASPPB); or

3. that he/she is a psychologist licensed in another state or territory of the U.S. or a Canadian province who is a current Diplomat of the American Board of Professional Psychology (ABPP) in good standing.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 23:861 (July 1997), amended LR 27:723 (May 2001), LR 29:2075 (October 2003).

Brenda C. Ward
Executive Director

0310#016

RULE

**Department of Health and Hospitals
Board of Examiners of Psychologists**

Supervised Practice
(LAC 46:LXIII.703)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists has amended LAC 46:LXIII.703.A.2.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Chapter 7. Supervised Practice Leading toward

Licensure

§703. Duration and Setting of Supervised Practice

A. - A.1. ...

2. To be credited toward the two years full-time requirements each assignment in a setting or integrated program shall be of at least 500 hours in duration and at least

half-time for that setting or integrated program. Supervised practice must be completed within five calendar years, and for cause shown, the board may grant extensions.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:249 (August 1979), amended LR 7:187 (April 1981), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, IR 13:180 (March 1987), LR 29:2075 (October 2003).

Brenda C. Ward
Executive Director

0310#014

RULE

**Department of Health and Hospitals
Board of Pharmacy**

Pharmacists (LAC 46:LIII.Chapters 1-29)

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 amended the following Rule, which becomes effective January 1, 2004.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 1. Introduction

§101. Preamble

A. Pursuant to the authority granted by R.S. 37:1182, and in the interest of promoting the public health, safety, and welfare, the following rules and regulations are hereby adopted by the Louisiana Board of Pharmacy (board).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2075 (October 2003).

§103. Pharmacy Board Organization

A. Board Officers

1. President. The president shall preside at all board meetings.

2. Vice-Presidents. In the absence of the president, the vice-presidents shall preside in descending order at all board meetings.

3. Secretary. The secretary shall conduct the nomination procedure for board candidates and report the results of the balloting to the governor for his appointments.

B. Election

1. General Election. The board shall annually elect officers from its membership.

2. Special Election. The president may call a special election of the board to fill vacancies of elected officers.

C. Officers' Terms. Officers elected by the board shall serve one-year terms and their terms shall end upon the election of their successors. An officer elected to a vacant position shall serve for the remainder of that term, at which

time an election shall occur commensurate with the annual election.

D. Per Diem. A per diem, as authorized by R.S. 37:1178, is defined as compensation to be received by a board member for each day of service while attending regular or called board meetings, while attending to official business of the board, or while attending a board related or board sanctioned conference, including travel days for members to and from these meetings, conferences, and related business. This per diem shall not serve as reimbursement for meals, lodging, and other expenses incurred as a result of these meetings, conferences, and related business.

E. Board Budget. The board is a self-sustaining body that shall generate sufficient revenues funded by fees, appropriations, and/or assessments in order to maintain efficient operations.

1. Administrative Costs. The board may assess administrative costs as it deems necessary to facilitate the proper implementation of its rules and regulations.

2. Annual Operating Budget. The board has the responsibility to perfect an annual operating budget.

3. Annual Capital Budget. The board has the responsibility to establish a capital budget, when applicable.

F. Executive Director. The executive director shall carry out functions of the board relative to its statutory requirements and other duties as defined by the board. With the board's approval, the executive director serves as the appointing authority and may appoint additional employees for professional, clerical, and special duties necessary to carry out the board's functions and may establish standards for the conduct of employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2075 (October 2003).

§105. Board Procedures

A. All board procedures and operations shall adhere to the Administrative Procedure Act, R.S. 49:950 et seq., the Open Meetings Law, R.S. 42:4.1 et seq., and the Public Records Act, R.S. 44:1 et seq.

B. Order. Robert's Rules of Order shall govern all proceedings unless otherwise provided.

C. Public Comments. A public comment period shall be held during each board meeting.

1. Persons desiring to present public comments shall notify the board chairman or executive director no later than the beginning of the meeting. However, to assure that an opportunity is afforded to all persons who desire to make public comments, the chairman shall inquire at the beginning of the meeting if there are additional persons who wish to comment. The chairman shall allot the time available for the public comments in an equitable manner among those persons desiring to comment, limiting each person to a maximum of three minutes, with the total comment period not to exceed 30 minutes. Each person making public comments shall identify himself and the group, organization, company, or entity he represents, if any.

2. Unless otherwise provided by law, public comment is not part of the evidentiary record of a hearing or case unless sworn, subject to cross-examination, offered by a

party as relevant testimony, and received in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2076 (October 2003).

§107. Board Committees and Subcommittees

A. Board committees are working bodies created by the board comprising members appointed or removed by the president to address and deliberate specific pharmacy matters referred by the board for specified periods consisting of the following.

1. Standing Committees. Standing committees are permanent bodies and are created by the board comprising members appointed by the president with the duty to address and deliberate specific subject matters referred by the board.

2. Special Committees. Special committees are appointed by the president for a particular period to address or deliberate special matters.

3. Board Subcommittees. Board subcommittees are created by the board comprising members and ex-officio non-voting members appointed by the president that are ancillary to a standing or special committee to address or deliberate a limited committee subject matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2076 (October 2003).

§109. Standing Board Committees

A. Executive Committee. The executive committee, comprised of the president, vice-presidents, and secretary shall function to address interim administrative board matters that require immediate attention between regularly scheduled board meetings.

B. Regulation Revision Committee. The regulation revision committee, consisting of at least three board members appointed at the discretion of the president, shall function to preliminarily draft rules, regulations, and policies to be considered by the full board for promulgation and/or resolution or order.

C. Reciprocity Committee. The reciprocity committee, consisting of at least three board members appointed at the discretion of the president, shall function to document the qualifications, compliance, and credentials of reciprocity candidates.

D. Impairment Committee. The impairment committee, consisting of at least three board members appointed at the discretion of the president, shall function to study, recognize, address the need to identify, and monitor the recovery of impaired persons in order to protect the public and the practitioner. Additionally, the impairment committee shall function to investigate, review, and interview impaired or allegedly impaired persons practicing or assisting in the practice of pharmacy and tender findings and recommendations to the board.

E. Violations Committee. The violations committee shall consist of at least three board members appointed at the discretion of the president. Board-designated staff shall preliminarily determine the disposition of complaints and alleged offenses. Thereafter, the violations committee shall

function to receive complaints, receive staffs' reports, and evaluate and review findings. The disposition of alleged offenses shall be determined by conducting an informal inquiry conference, an interlocutory hearing, and/or referring the matter to special counsel for formal hearing by the full board.

F. Reinstatement Committee. The reinstatement committee, consisting of at least three board members appointed at the discretion of the president, shall function to receive complaints, receive staffs' reports, evaluate and review findings, interview applicants, deliberate, and tender recommendations to the full board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2076 (October 2003).

§111. Official Journal

A. The official journal of the board is the *Louisiana Board of Pharmacy Newsletter*. The newsletter may be used in administrative hearings as proof of notification to pharmacists, interns, pharmacy technicians, pharmacy technician trainees, and holders of pharmacy permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2077 (October 2003).

Chapter 3. Board Hearings

§301. Board Hearing Procedures and Jurisdiction

A. Person. The board has jurisdictional authority over the person practicing pharmacy, assisting in the practice of pharmacy, operating a pharmacy, or otherwise licensed, registered, certified, or permitted by the board. A person is as defined in R.S. 37:1164(33) of the Pharmacy Practice Act.

B. Subject Matter. The board has jurisdiction over any subject matter related to the practice of pharmacy or any other matter regarding the dispensing or selling of prescription drugs in a safe manner so as not to endanger the public health, safety, or welfare.

C. Board Authority. The board has authority to adopt rules pursuant to the Pharmacy Practice Act, R.S. 37:1161 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., regarding due process disciplinary hearings.

D. Venue. A due process hearing shall convene in a designated Louisiana parish at a regularly called board meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2077 (October 2003).

§303. Summons

A. A summons shall represent a complaint of an alleged violation directed to a respondent.

B. Hearing Notice. The board shall initiate a hearing by issuing a notice summons. The notice summons shall be forwarded to the respondent commanding his presence to appear before the board for a due process hearing setting forth the following.

1. Name. The notice shall include the respondent's name and address.

2. Time. The notice shall state the designated time, date, and place.

3. Allegation. The notice shall recite the alleged violation(s) establishing a cause of action and the nature of the hearing.

4. Authority. The notice shall make references to specific board, state, or federal statutes, regulations, rules, policies, or code of ethics involved in the alleged violation(s).

5. Citation. The notice shall cite legal or jurisdictional authority constituting an alleged violation(s).

6. Documents. The notice may include supporting documents, reports, and/or other relevant material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2077 (October 2003).

§305. Service

A. Method. Service of a summons shall be made either by regular, registered, or certified mail, with a return receipt requested, or board or court designated process servers confected by tendering the summons to the respondent personally or domiciliary at the last known address.

B. Time. Service shall be made at least 30 days prior to the date of the hearing as per R.S. 37:1245.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1245.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2077 (October 2003).

§307. Default Proceedings

A. The board may proceed with a hearing in the event the respondent fails to appear after due notice was perfected or a diligent effort had been made to perfect service on the respondent at the last known address of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2077 (October 2003).

§309. Joinder

A. Several complaints may be joined or incorporated and the respondents may be joined in the same or similar complaints based on the same or similar acts or transactions that are connected in a common plan or scheme.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2077 (October 2003).

§311. Consolidation

A. Hearings may be held jointly to assure a fair due process hearing. Any alleged violations may be consolidated for an administrative hearing of respondents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2077 (October 2003).

§313. Severance

A. A severance of complaints is permitted when a fair due process hearing will not be satisfied. Otherwise, complaints may be heard jointly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2077 (October 2003).

§315. Motions

A. Hearing Motions. Motions are directed to the board or presiding officer for particular relief or action before, during, or after a hearing and shall be in writing when applicable, and allege specifically the grounds upon which the relief is based, and filed with the board five days before hearing or within ten days post-hearing or timely filed during the hearing. At an appropriate time to be decided by the hearing officer, oral or written motions may be directed to the presiding hearing officer during a hearing. Hearing motions are directed to the presiding hearing officer and disposed of appropriately.

B. Continuance Motions.

1. Postponement Motions. The board may grant or deny a continuance based upon critical or extenuating circumstances that could jeopardize a fair and expeditious due process hearing.

2. Time. Continuance motions shall be filed in writing at least five days prior to the scheduled hearing with specific grounds for postponement. This requirement may be waived by the board under emergency circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2078 (October 2003).

§317. Recusation

A. A board member or special counsel may be recused by one's own motion because of an inability to contribute to a fair and impartial hearing or may be recused by a majority vote of the board members present based on the following grounds:

1. prejudicial or personal interest in a case that might prevent one from participating in an impartial hearing;

2. the board may recuse the presiding administrative hearing officer on his own motion or he may be disqualified based upon his own inability to contribute to or conduct an impartial hearing by the respondent filing an affidavit of specific grounds at least five days prior to the scheduled hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2078 (October 2003).

§319. Sequestration

A. Upon request by either respondent or special counsel or by direction of the hearing officer, witnesses shall be sequestered and not allowed in the hearing chambers or permitted to discuss their testimony with other witnesses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2078 (October 2003).

§321. Sanction Guidelines

A. The sanctions imposed by the board pursuant to R.S. 37:1241 of the Pharmacy Practice Act shall be based on the following guidelines.

1. Nature. The nature or seriousness of the violation.
2. Degree. The degree of culpability, knowledge and/or intent, or the responsibility to have knowledge.
3. Scope. The scope of circumstances involved.
4. Demeanor. Honesty and truthfulness of respondent.
5. History. History of prior offenses.
6. Sanctions. Prior sanctions.
7. Cooperation. Willingness of respondent to comply with applicable laws and regulations and avoid future violations.
8. Sufficiency. Sanctions are sufficient to remedy the problem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2078 (October 2003).

§323. Administrative Investigation

A. Upon the receipt of a written complaint, board staff shall initiate and conduct an investigation.

1. Grounds. The investigative report shall be reviewed by board-designated staff and forwarded to the violations committee or legal counsel to determine sufficient grounds for proceeding either informally or formally.

2. The report shall include:

- a. respondent's name and address; and
- b. a concise statement of facts and circumstances indicating the basis of the routine or specific complaint or cause of action; and
- c. supporting documents and/or materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2078 (October 2003).

§325. Violations Committee

A. Purpose. Board-designated staff shall receive reports and complaints and review and evaluate findings to determine the nature and disposition of the alleged violation(s). The alleged violation(s) may then be directed to:

1. violations committee for informal hearing;
 2. violations committee for interlocutory hearing;
- and/or
3. special counsel for institution of a formal administrative hearing.

B. Guidelines. If determined appropriate by board-designated staff, the violations committee shall receive and review complaints and determine the disposition of the pending matters based on the following.

1. Seriousness. The seriousness of the alleged offense.
2. Degree. The extent of the alleged violations.
3. History. The history of prior violations.
4. Record. Prior sanctions.
5. Cooperation. Willingness to obey the prescribed laws and regulations.
6. Deterrent. Consider the sanctions as a deterrent to future violations.
7. Remedy. The sanctions are sufficient to remedy the problem.

C. Informal Hearings. The violations committee may conduct an informal non-adversarial hearing with the respondent properly noticed of the inquiry regarding the

issues to be discussed. The committee shall receive information and deliberate as to a cause of action regarding a potential violation. The committee may recommend a course of action to the full board or dismiss the allegations by an affirmative majority vote of the committee. Should the violations committee recommend a course of action to the full board, the following shall apply.

1. Disclosure. Respondent's testimony or the work product from the informal hearing of any staff or committee member may not be introduced at any subsequent formal hearing.

2. Recusal. Violations committee members shall not be permitted to participate in subsequent formal board hearings pertaining to complaints or alleged violations heard by the violations committee, unless respondent allows otherwise.

D. Interlocutory Hearings. By interlocutory (or summary) hearing, the violations committee may summarily suspend a license, permit, certification, and/or registration prior to a formal administrative board hearing wherein, based upon the committee's judgment and reflected by adequate evidence and an affirmative majority decision, a person poses a danger to the public's health, safety, and welfare, and the danger requires emergency action.

1. Summons Notice. A summary proceeding summons notice shall be served at least five days before the scheduled hearing to afford the respondent an opportunity to be heard with respect to a potential summary suspension action. The notice shall contain a time, place, nature, and the grounds asserted relative to the alleged conduct warranting summary suspension.

2. Burden of Proof. Legal counsel shall have the burden of proof to support the contention that the public's health, safety, or welfare is in danger and requires summary or emergency action.

3. Evidence. The respondent shall have the right to appear personally and/or be represented by counsel to submit affidavits, documentary evidence, or testimony in response to the cause of action asserted as the basis for the summary suspension.

4. Decision. The committee shall determine whether to grant or deny the summary suspension based upon adequate evidence with an affirmative majority vote substantiated by finding(s) of fact and conclusion(s) of law that the public's health, safety, or welfare is in danger and requires emergency or summary action.

5. Report. The committee shall submit their findings and interlocutory decree to the board when rendered.

6. Suspensive Duration. The summary suspension decree shall be followed by a formal administrative hearing within 30 days from receipt of notice by the respondent.

E. Probation Violation Hearings. Probation violation proceedings shall be initiated upon receipt of information indicating that a respondent is in violation of any of the terms or conditions of his probation.

1. Review. Board-designated staff shall receive and review the compliance officer's report and then determine whether a probation violation proceeding is warranted. Should a probation violation hearing be determined warranted, the violations committee shall proceed by interlocutory hearing or informal hearing as deemed appropriate.

2. Notice. Notice shall be afforded the respondent of the allegation(s) forming the basis of the alleged violation status, and the time and place of the appropriate hearing to be conducted.

3. Disposition. Disposition of the hearing shall be according to the appropriate procedures to informal hearings or interlocutory hearings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2078 (October 2003).

§327. Impairment Committee

A. Impairment. Impairment means a condition that causes an infringement on the ability of an individual to practice, or assist in the practice, of pharmacy sufficient to pose a danger to the public. Impairment may be caused by, but is not limited to, alcoholism, substance abuse or addiction, mental illness, or physical illness.

B. The impairment committee shall have the following responsibilities:

1. supervise the Practitioner Recovery Program;
2. recommend for board consideration any addictionists or other professionals utilized by the program;
3. recommend for board consideration any action for reinstatement of recovering persons;
4. any other related responsibilities deemed appropriate by the board.

C. Practitioner Recovery Program. The board may establish and maintain a recovery program to assist impaired persons through the recovery process so that they may safely return to practice. The board may utilize the services of outside agencies to assist in the recovery of the impaired person.

D. Informal Hearing

1. The board may convene an informal administrative hearing to identify an impaired person and to take appropriate action. The board may require the appearance of any persons deemed necessary to properly conduct an informal hearing. This process shall be conducted by the impairment committee chairman or any other member(s) of the board or staff as the president deems necessary.

2. Any knowledge acquired by any board member or staff in identifying and assisting an allegedly impaired person shall not automatically be grounds for recusal at any later hearing on that same matter.

3. An impaired or allegedly impaired person may enter into a preliminary consent agreement that shall include a mandatory surrender of that person's license, permit, certification, or registration, which shall be delivered to the board office and shall effectively prohibit that person from practicing, or assisting in the practice of, pharmacy. Such person shall agree to enter into an approved treatment and monitoring program as determined by the board. This consent agreement shall not restrain the board from conducting violations proceedings in the matter as it deems necessary.

4. The impairment committee may make recommendations to the full board and/or the violations committee as it deems appropriate on an impaired or allegedly impaired person.

E. Impaired Reinstatement. An application for reinstatement of an impaired person shall be filed with the impairment committee for consideration and recommendation to the violations committee and/or the full board.

1. An impaired person may petition the board for reinstatement of his license, permit, certification, or registration, provided he has:

a. documented proof from an attending physician that he has successfully completed an alcohol or substance abuse recovery program; and

b. a current post-treatment evaluation from a board-approved addictionist; and

c. successfully completed any requirements the board deems necessary with respect to the particular type of impairment;

d. the impairment committee may waive the above requirements for impairments not related to alcohol or substance abuse.

2. After the above stipulations have been met, the person applying for reinstatement may be scheduled for an interview with the impairment committee for consideration of any recommendation to the reinstatement committee and/or the full board.

3. Upon reinstatement, the board may place the reinstated person on probation for a specified length of time and may assign conditions of the probation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2079 (October 2003).

§329. Formal Hearing

A. Authority. The board shall provide a formal administrative hearing pertaining to the proprietary rights or privilege to practice pharmacy, or operate a pharmacy, or hold a certificate or registration, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., with authority to take disciplinary action pursuant to R.S. 37:1241 of the Pharmacy Practice Act.

B. Ex-Parte Communication. Once a formal hearing has been initiated and notice served, board members participating in the decision process shall not communicate with a respondent or a respondent's attorney concerning any issue of fact or law involved in the formal hearing.

C. Notice. A formal disciplinary public proceeding may be initiated upon proper notice to a respondent and held at a designated time and place based upon the following grounds:

1. violation of sufficient evidence or a serious complaint of an alleged violation to require a formal hearing shall be directed to legal or special counsel for administrative prosecution to justify a formal hearing; or

2. failure to respond to a failure by the respondent to respond to the violations committee informal inquiry; or

3. irresolvable issues to a violations committee informal hearing fails to resolve all issues and requires further formal action; or

4. irreconcilable issues to an interlocutory hearing fails to resolve all pertinent pending issues thus requiring further formal action; or

5. reaffirmation of an interlocutory decree; or

6. requirement for a formal administrative hearing requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2080 (October 2003).

§331. Formal Hearing Procedures

A. Hearing Officers

1. Administrative Hearing Officer. The presiding hearing officer may be the board president, a vice-president, or other individual appointed by the president or his successor. The hearing officer has the responsibility to conduct a fair and impartial proceeding with the administrative duty and authority to:

a. convene an administrative board hearing;

b. rule on motions and procedural questions arising during the hearing such as objections or admissibility of evidence or examination of witnesses;

c. issue or direct staff to issue subpoenas;

d. declare recess;

e. maintain order;

f. enforce a standard of conduct to insure a fair and orderly hearing;

g. remove disruptive person(s) from a hearing.

2. Oaths. The presiding hearing officer, executive director, or other board designee may administer oaths.

B. Administrative Jury. The board, comprised of a quorum of members, shall serve as an administrative jury to hear and determine the disposition of the pending matter based on the finding(s) of fact and conclusion(s) of law by receiving evidence and reaching a decision and/or ordering sanctions with an affirmative majority record vote of board members participating in the decision process.

C. Administrative Hearing Clerk. The board's executive director shall serve as the administrative hearing clerk and shall maintain administrative hearing records.

D. Administrative Prosecutor. The legal or special counsel shall prosecute the pending matter and bear the burden of proof to be presented to the board.

E. Administrative Reporting. The board-designated stenographer shall record all testimony dictated and evidence received at the hearing. The utilization of recording equipment may be employed.

F. Hearing Order

1. Docket. Contested matters shall be identified by reference docket number and caption title. The administrative hearing clerk or other staff or board member designated by the presiding hearing officer shall announce the docket and identify persons present or absent in the hearing chambers.

2. Complaint. The complaint may be read at an open hearing unless waived by the respondent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2080 (October 2003).

§333. Pre-Hearing Conference

A. Respondents and/or their legal counsel in matters pending before the board may be directed by the presiding administrative hearing officer to appear at a pre-hearing conference to consider the simplification of the issues, admission of facts, or stipulations to documents which may avoid unnecessary proof and such other items as may aid in the disposition of the matter(s) pending.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2081 (October 2003).

§335. Consent Agreements

A. Respondents may enter into consent agreements with the board on any matter pending before the board. A consent agreement is not final until the board approves the consent agreement by majority vote of the administrative jury. If the consent agreement is rejected in full or part, the matter shall be heard at the next regularly scheduled board hearing. However, nothing herein shall limit the board from modifying a consent agreement, with respondent's approval, to include less severe sanctions than those originally agreed to in a pending consent agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2081 (October 2003).

§337. Opening Statement

A. An opening statement by legal or special counsel may present a brief position comment with an outline of evidence to be offered. Respondent or respondent's legal counsel may present an opening defense position statement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2081 (October 2003).

§339. Evidence

A. Testimony Received. Testimony shall be received under oath administered by the presiding hearing officer, the executive director, or other staff or board member designated by the hearing officer.

B. Evidence Introduction. All parties shall be afforded an opportunity to present evidence on all issues of fact and argue on all issues of law and respond by direct testimony, followed with cross examination as may be required for a full and true disclosure of the facts. The direct presentation of evidence shall be introduced by the legal or special counsel and shall be followed by the respondent in proper person or by legal counsel by direct and/or cross-examination and/or rebuttal.

C. Examination. Witnesses may be directly examined and cross-examined. Additionally, witnesses and/or respondents may be questioned during an administrative hearing by members of the administrative jury on matters for clarification.

D. Rule Interpretation. Liberal rules of evidence shall be employed by the presiding hearing officer to provide adequate facts and law necessary for the board to deliberate and decide each case. The board's administrative hearing shall not be bound to strict rules of evidence.

E. Admissibility. Admissibility of evidence and testimony shall be determined by the presiding hearing officer as provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2081 (October 2003).

§341. Closing Arguments

A. Closing arguments may be made by respondent in proper person or by legal counsel followed by closing arguments from prosecuting legal or special counsel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2081 (October 2003).

§343. Board Decisions

A. The board's decision shall be based on finding(s) of fact and conclusion(s) of law. The board's decision shall be based on clear and convincing evidence presented at a formal hearing, together with the board's determination of any appropriate sanctions, by an affirmative majority record vote of the board members participating in the decision process. Decisions shall be recorded and made part of the record.

1. Board Order. The board's order shall be rendered at the open hearing or taken under advisement and rendered within 30 days of the hearing and then served personally or domiciliary at the respondent's last known address by regular, registered, or certified mail, or by a diligent attempt thereof.

2. Finality of Board Order. The board's order becomes final eleven days after receipt of notification of the board's decision by respondent, provided an appeal is not filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2081 (October 2003).

§345. Complaint Dismissal

A. The board, in their discretion and based upon lack of evidence, may orally dismiss at an open hearing a pending matter or parts thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2081 (October 2003).

§347. Transcripts

A. A complete record of all formal hearing proceedings shall be transcribed, maintained, and available upon written request with sufficient costs of the preparation of the transcript for a minimum of three years from the date the pertinent order(s) is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2081 (October 2003).

§349. Contempt

A. A failure of a respondent or witness to comply with a board order, after being duly served, constitutes contempt and the board may petition a court of competent jurisdiction

to rule the witness or respondent in court to show cause why he should not be held in contempt of court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2081 (October 2003).

§351. Administrative Review

A. Rehearing. An aggrieved respondent may file within ten days a rehearing motion in proper form requesting reconsideration or a rehearing by the board or by the interlocutory hearing panel.

B. Grounds. The board or an interlocutory hearing panel may reconsider the motion for rehearing at the next regularly scheduled board meeting. The grounds for such action shall be either that:

1. the board's decision was clearly contrary to the law or evidence; or
2. newly discovered evidence not available at the time of the hearing which may be sufficient to reverse the board's decision; or
3. issues not previously considered ought to be examined; or
4. it is in the public interest to reconsider the issues and the evidence.

C. Time. The board or an interlocutory hearing panel shall grant or deny the petition for rehearing within 30 days after its submission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2082 (October 2003).

§353. Judicial Review

A. An aggrieved respondent may appeal the board's decision to a court of appropriate jurisdiction within 30 days from the board order or rehearing motion denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1248.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2082 (October 2003).

§355. Reporting

A. The board may publish in the board's newsletter the sanctions imposed by the board that are of public interest and the public's right to know.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2082 (October 2003).

§357. Reinstatement

A. An application for reinstatement based on revocation or suspension of a pharmacist license, pharmacy permit, certification, registration, or any other designation authorized by the board shall be filed with and heard by the reinstatement committee for consideration and recommendation to the full board. The board may then hold a formal hearing whereby the burden of proof shifts to the applicant to demonstrate and support with substantial evidence respondent's rehabilitation and that the reinstatement of the license, permit, certification, registration, or other board-authorized designation at issue

would not pose a danger to the public's health, safety, or welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2082 (October 2003).

§359. Declaratory Statements and Advisory Opinions

A. The board may issue declaratory rulings in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. These may include a declaratory statement or an advisory opinion, in the form of a ruling which has the same status as board decision in adjudicated cases, in response to a request for clarification of the effect of rules and regulations or of R.S. 37:1161 et seq. Advisory opinions as a statement of the board's ruling are generally rendered in cases that relate to specific situations. Declaratory statements contain the board's ruling relative to the petition, with the principles and rationale that support the ruling. Declaratory statements are generally rendered in situations that relate to widespread situations. Neither an advisory opinion nor a declaratory statement has the binding force of law, but they represent the board's expert opinion relative to the matter in question.

B. A request for a declaratory statement or for an advisory opinion is made in the form of a petition to the board. At a minimum, the petition shall include:

1. the name and address of the petitioner;
2. specific reference to the statutes or rules and regulations to which the petition relates;
3. a concise statement of the manner in which the petitioner is aggrieved by the rule, regulation, or statute, or by its potential application to the petitioner, or in which the petitioner is uncertain of its effects;
4. a statement of whether an oral hearing is desired; and
5. other information appropriate for the board's deliberation on the request.

C. Said petition shall be considered by the board at its next regularly scheduled meeting provided that the petition has been filed at least 60 days prior to the next scheduled board meeting.

D. The declaratory statement/advisory opinion of the board on said petition shall be in writing and mailed to petitioner at the last address furnished to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2082 (October 2003).

Chapter 5. Pharmacists

Subchapter A. Licensure Procedures

§501. Application

A. An application for initial pharmacist licensure, whether by examination or reciprocity, shall be submitted, with appropriate fee, to the board at least 30 days prior to any examination. An application shall expire one year after the date of receipt in the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2082 (October 2003).

§503. Examination

A. Examination. A board-approved licensure examination shall consist of integrated pharmacy subject matters and any other disciplines the board may deem appropriate in order to demonstrate competence. An applicant shall achieve a passing score, as determined by the board, in the pharmacy examination.

B. Re-Examination

1. Following the first or second unsuccessful attempt of an examination for licensure, an applicant may be permitted to attempt that examination for licensure.

2. Following the third unsuccessful attempt of an examination for licensure, an applicant shall not be permitted to attempt that examination for licensure until one year from the date of the last examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2083 (October 2003).

§505. Licensure

A. The board shall issue a license upon payment of appropriate fees when the board is satisfied the applicant is competent to practice pharmacy in the state.

1. License Display. A pharmacist's license shall be displayed in a conspicuous place in the principal location where the pharmacist is engaged in the practice of pharmacy and in such a manner that said license may be seen by patrons.

2. Identification Card. The board shall issue an identification card to a pharmacist who completes the licensure process. A pharmacist shall have this identification card on his person when practicing outside of his principal practice site in order to show proof of licensure.

3. Renewal. The board shall mail the annual pharmacist license renewal application to all currently licensed Louisiana pharmacists prior to November 1. The completed application along with the appropriate fee shall be submitted to the board by December 31 of each year. A pharmacist's renewal of licensure shall be displayed in the principal location where the pharmacist is engaged in the practice of pharmacy and in such a manner that said renewal may be seen by patrons. A renewal of licensure shall serve as proof of licensure and a pharmacist's license to practice pharmacy for that year of issuance.

a. Active. A pharmacist applicant shall pay the annual renewal fee, attain minimum continuing pharmacy education (CPE) as required, and complete and submit the annual renewal form to the board office before December 31 of each year.

b. Inactive. A pharmacist applicant may make a written request for inactive status from the board. The inactive pharmacist must complete the annual renewal form furnished by the board and submit it with the appropriate fee to the board before December 31 of each year. An inactive pharmacist shall not engage in the practice of pharmacy and is not required to obtain CPE. In order to upgrade an inactive license to active status, an inactive pharmacist shall petition the board and meet requirements of the reinstatement committee and the board. The board shall set the requirements necessary to assure competency for each individual applying for active status.

D. Expired License. A pharmacist license that has not been renewed by December 31 of each year shall expire and be null and void. The holder of an expired license may submit a written request, complete with any supporting documentation, for reinstatement to the board. The request may be referred preliminarily to the board's reinstatement committee for an informal hearing and recommendation that may be considered by the board at its next regularly scheduled meeting. The board may reinstate an expired license upon payment of applicable annual, delinquent, and lapsed license fees pursuant to R.S. 37:1184, as amended, and other conditions as the board deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2083 (October 2003).

§507. Continuing Education Program

A. The board, recognizing that professional competency is a safeguard for the health, safety, and welfare of the public, shall require continuing pharmacy education as a prerequisite for annual licensure renewal for pharmacists.

B. Definitions

1. ACPE/American Council on Pharmaceutical Education.

2. CPE/continuing pharmacy education, a structured postgraduate educational program for pharmacists to enhance professional competence.

3. CPE unit/A standard of measurement adopted by the ACPE for the purpose of accreditation of CPE programs. One CPE unit is equivalent to 10 credit hours.

C. Requirements

1. A minimum of one and one-half ACPE or board-approved CPE units, or 15 hours, shall be required each year as a prerequisite for pharmacist licensure renewal.

2. Pharmacists shall maintain copies of individual records of personal CPE activities at their primary practice site for two years and present them when requested by the board.

3. When deemed appropriate and necessary by the board, some or all of the required number of hours may be mandated on specific subjects. When so deemed, the board shall notify all licensed pharmacists prior to the beginning of the year in which the CPE is required.

D. Compliance

1. Complete compliance with CPE rules is a prerequisite for pharmacist licensure renewal.

2. Non-compliance with the CPE requirements shall be considered a violation of R.S. 37:1241(A)(2), and shall constitute a basis for the board to refuse licensure renewal.

3. The failure to maintain an individual record of personal CPE activities, or falsification of CPE documents, shall be considered a violation of R.S. 37:1241(A)(22).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 23:1306 (October 1997), amended LR 29:2083 (October 2003).

§509. Address Change

A. A licensed pharmacist shall notify the board within ten days, with documentation, attesting to any change of mailing and/or home address. This documented notice shall

include the pharmacist's full name and license number, and the old and new address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2083 (October 2003).

§511. Employment Change

A. A licensed pharmacist shall notify the board within ten days, with documentation, attesting to any change in employment. This documented notice shall include the pharmacist's full name and license number, the name and address of old and new employment, and the permit numbers of those pharmacies involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2084 (October 2003).

§513. Certified Pharmacist Preceptor Program

A. Qualifications for Certified Pharmacist Preceptor Applicants

1. The applicant shall be currently licensed and shall have been actively practicing for not less than two consecutive years prior to the date of application.

2. The applicant shall not be on probation with the board at the time of application.

B. Certified Pharmacist Preceptor Requirements

1. The applicant shall complete a board-approved certified pharmacy preceptor training program.

2. The applicant shall complete an Application for Pharmacist Preceptor Certification. The board may issue a Pharmacist Preceptor Certification after verification that all requirements have been satisfied.

a. The Pharmacist Preceptor Certificate shall expire five years after the date of issue, and may be renewed upon application to the board and verification by the board that all requirements have been satisfied.

b. The board shall reserve the right to refuse to issue or terminate any Pharmacist Preceptor Certification for cause.

c. The Pharmacist Preceptor Certification shall be conspicuously displayed at the primary preceptor pharmacy location.

C. A Certified Pharmacist Preceptor Program shall meet all requirements established by the board.

D. A certified pharmacist preceptor shall not supervise more than one intern at any given time. Interns satisfactorily progressing in their final academic year in a board-approved college of pharmacy shall not be counted in that 1:1 ratio.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 26:2286 (October 2000), amended LR 29:2084 (October 2003).

Subchapter B. Professional Practice Procedures

§515. Prospective Drug Utilization Review

A. A pharmacist shall review the patient record and each prescription presented for dispensing for purposes of enhancing pharmacy care and therapeutic outcomes by recognizing the following potential situations:

1. drug over-utilization or under-utilization;
2. therapeutic duplication;
3. drug-disease contraindications;
4. drug-drug interactions;
5. inappropriate drug dosage or treatment duration;
6. drug-allergy interactions; or
7. clinical abuse/misuse.

B. Upon recognizing any of the above situations, the pharmacist, using professional judgment, shall take appropriate actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2084 (October 2003).

§517. Patient Counseling

A. Patient counseling means the effective communication by a pharmacist of information to the patient or caregiver, in order to ensure proper use of drugs and devices.

B. Minimum Requirements. At a minimum, the pharmacist should be convinced that the patient or caregiver is informed of the following:

1. name and description of the medication;
2. dosage form, dosage, route of administration, and duration of therapy;
3. special directions and precautions for preparation, administration, and use by the patient;
4. common severe side effects or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required in the event of their occurrence;
5. techniques for self-monitoring drug therapy;
6. proper storage of the medication;
7. prescription refill information, if any; and
8. the action to be taken in the event of a missed dose.

C. The pharmacist may supplement oral information with written information, but shall not use written information alone to fulfill the counseling requirement.

D. Patient Information

1. The pharmacist shall make a reasonable effort to obtain, record, and maintain the following information:

- a. name, address, and telephone number;
- b. date of birth (or age) and gender;
- c. allergies/drug reactions, disease state(s); and
- d. current list of all medications.

E. Communication to the Patient

1. A pharmacist shall counsel the patient or caregiver "face-to-face" when possible or appropriate. If it is not possible or appropriate to counsel the patient or caregiver "face-to-face," then a pharmacist should counsel the patient or caregiver by using alternative methods. The pharmacist shall exercise his professional judgment in the selection of alternative methods, including but not limited to, telephonic or electronic communication with the patient or caregiver.

2. A pharmacist shall provide patient counseling to patients discharged from hospitals and/or other institutions, where applicable. However, counseling shall not be required for inpatients of a hospital or institution where a nurse or other licensed health care professional is authorized to administer medication(s).

3. The pharmacist shall maintain appropriate patient-oriented drug information materials for use by the patient upon request.

F. Waiver. No pharmacist or pharmacy may solicit or encourage blanket waivers for patient counseling. However, nothing in this regulation shall prohibit the patient or caregiver from declining patient counseling.

AUHTORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2084 (October 2003).

§519. State of Emergency

A. When the governor issues, or renews, a state of emergency pursuant to the Emergency Assistance and Disaster Act of 1993, R.S. 29:721 et seq.:

1. a pharmacist may work in the affected parish(es) and may dispense a one-time emergency prescription of up to a 30 day supply of a prescribed medication if:

a. in the pharmacist's professional opinion the medication is essential to the maintenance of life or to the continuation of therapy; and

b. the pharmacist makes a good faith effort to reduce the information to a written prescription marked "Emergency Prescription," then file and maintain the prescription as required by law;

2. a pharmacist not licensed in Louisiana, but currently licensed in another state, may dispense prescription medications in those affected parish(es) during the time that a state of emergency exists if:

a. the pharmacist has some type of identification to verify current licensure in another state; and

b. the pharmacist is engaged in a legitimate relief effort during the emergency period.

B. The authority provided for in this Section shall cease with the termination of the state of emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2085 (October 2003).

§521. Prescription Orders to Administer Medications

A. Purpose. The Rules of this Section describe the minimum requirements for the administration of medications to patients by Louisiana-licensed pharmacists.

B. A licensed pharmacist may administer medication directly to a patient upon the prescription or order of a practitioner. Such a prescription or order shall be known as an "Authority to Administer."

1. An Authority to Administer is valid only for the pharmacist meeting the requirements herein and is not transferable.

2. An Authority to Administer, once granted, is valid for a period of time not to exceed six months, unless revoked sooner by the practitioner granting the order.

C. A properly executed Authority to Administer shall:

1. identify the licensed practitioner's name, office address, and telephone number;

2. bear the patient's name, address, gender, and date of birth;

3. identify the medication, dose, and route of administration;

4. identify the pharmacist authorized to administer the medication; and

5. bear the date of the original order and the date of any authorized subsequent dose administrations.

D. Requirements. Unless otherwise specifically authorized by the board, a pharmacist shall meet the following minimum standards to qualify for an Authority to Administer:

1. obtain and maintain a license to practice pharmacy from the board;

2. successfully complete a board-approved course of study from a board-approved provider that:

a. requires documentation by the pharmacist of current certification in the American Heart Association's Basic Cardiac Life Support for Healthcare Providers, its successor, or board-approved equivalent;

b. is an evidence-based didactic course that meets current Centers for Disease Control and Prevention (CDC) training guidelines, or other guidelines as designated by the board, and provides a minimum of twenty hours of instruction and experiential training in the following content areas:

i. standards for medication administration practices;

ii. basic immunology;

iii. recommended medication administration schedules;

iv. vaccine storage and management;

v. informed consent;

vi. physiology and techniques for medication administration;

vii. pre- and post-administration assessment and counseling;

viii. medication administration record management; and

ix. management of adverse events, including identification and appropriate response, as well as documentation and reporting; and

c. provides documentation of the successful completion of the course to the participant.

i. The pharmacist shall display the certificate of completion in the primary practice site.

ii. The pharmacist shall submit a copy of said certificate to the board office for placement in the pharmacist's permanent file.

E. The pharmacist shall maintain continuing competency to accept an Authority to Administer, as evidenced by:

1. a current certification by the American Heart Association's Basic Cardiac Life Support for Healthcare Providers, its successor, or board-approved equivalent; and

2. successful completion of at least one hour of continuing education per year related to this area of practice.

F. Vaccines. The pharmacist shall maintain and furnish the following information to the practitioner within 24 hours of the administration:

1. name and address of the patient;

2. age of the patient, if under fourteen years of age;

3. name of the patient's primary care physician as provided by the patient or patient's agent;

4. name, manufacturer, and lot number of the vaccine administered;

5. amount administered;
6. date of vaccine administration;
7. site of vaccine administration;
8. route of administration; and
9. name, address, and telephone number of the pharmacist administering the vaccine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2085 (October 2003).

Chapter 7. Pharmacy Interns

§701. Definition

A. A *pharmacy intern* is an individual who is not yet licensed as a pharmacist in any jurisdiction, and is:

1. engaged in the practice of pharmacy while under the direct and immediate supervision of a pharmacist for the purpose of obtaining practical experience for licensure as a pharmacist, and is satisfactorily progressing in a board-approved college of pharmacy; or
2. a graduate of a board-approved college of pharmacy awaiting examination for licensure; or
3. a graduate who has established educational equivalency through a program approved by the board; or
4. an individual participating in a residency or fellowship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 23:1306 (October 1997), amended LR 26:2284 (October 2000), amended LR 29:2086 (October 2003).

§703. Registration

A. All pharmacy interns shall meet the following requirements for registration.

1. All pharmacy interns shall register with the board. The failure to register may result in disciplinary action by the board.
 - a. The applicant shall submit to the board office a properly completed application no later than the end of the first semester of the first academic year at a board-approved college of pharmacy.
 - b. The board may issue an Intern Registration to the applicant, upon receipt of a properly completed application, appropriate fee, and any other documentation required by the board office.
 - c. The Intern Registration shall expire one year after the certification of graduation from a board-approved college of pharmacy.
 - d. The Intern Registration shall be conspicuously displayed at the preceptor site.
 - e. The board shall reserve the right to recall or refuse to issue any Intern Registration for cause.
2. A pharmacy intern shall wear appropriate attire and be properly identified with his name and intern status while on duty at the preceptor site.
3. A pharmacy intern shall notify the board in writing within ten days of a change of address. This notice shall include the pharmacy intern's name, registration number, and old and new addresses.

4. A pharmacy intern shall notify the board in writing within 10 days of a change in location(s) of employment. This notice shall include the pharmacy intern's name and

registration number, the name and address of old and new employment, and the permit numbers of those pharmacies involved.

5. The pharmacy intern shall be non-impaired.

a. The pharmacy intern is subject to confidential random drug screen testing and/or evaluations.

b. A positive drug screen may be self evident as proof of improper drug use. For the purposes of this Chapter, a missed screen, a screen submitted beyond the mandated period, and/or any screen submitted indicating the sample provided is diluted, substituted, or in any way adulterated is considered to be a positive drug screen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 26:2285 (October 2000), amended LR 29:2086 (October 2003).

§705. Practical Experience

A. All applicants for licensure by examination shall earn practical experience in the practice of pharmacy concurrent with attending or after graduation from a board-approved college of pharmacy.

B. The practical experience shall be predominantly related to the provision of pharmacy primary care and the dispensing of drugs and medical supplies, the compounding of prescriptions, and the keeping of records and making of reports as required under federal and state law.

1. The practical experience earned shall have been under the supervision of a certified pharmacist preceptor.

2. A pharmacy intern shall not earn hours in a permitted pharmacy site that is on probation with the board or under the supervision of a pharmacist who is on probation with the board.

C. Practical Experience Hours. Interns shall supply, on an affidavit form supplied by the board office, evidence of earning at least 1,500 hours of practical experience. Interns may submit their affidavit(s) to the board office for credit approval either prior to, or concurrent with, their application for pharmacist licensure.

1. In order to receive credit for the 1,500 hours of practical experience upon certification of graduation, a pharmacy intern shall comply with the following:

a. prior to beginning his final academic year in a board-approved college of pharmacy, the intern shall earn a minimum credit of 500 hours under the supervision of a certified pharmacist preceptor at a permitted pharmacy site; and

b. The intern shall earn a minimum credit of 1,000 hours within the board-approved college of pharmacy's professional experience curriculum; and further, of the 1,000 hours within that professional experience curriculum, not less than 300 hours shall be earned in a traditional community pharmacy dispensing practice, and not less than 300 hours shall be earned in a traditional hospital pharmacy dispensing practice, as certified by the dean of the college of pharmacy.

2. If credit is not received for the total required 1,500 hours upon certification of graduation pursuant to the provisions of §705.C.1, the intern shall earn 1,500 hours of practical experience under the supervision of a certified pharmacist preceptor at a permitted pharmacy site after

certification of graduation from a board-approved college of pharmacy.

3. Practical experience hours earned either prior to the final academic year, or after certification of graduation from a board-approved college of pharmacy, that are submitted to the board for credit consideration shall be listed on an affidavit form supplied by the board office, and signed by the certified pharmacist preceptor and pharmacy intern.

a. A pharmacy intern may receive credit for a maximum of 50 hours per week.

b. A separate affidavit shall be required from each permitted pharmacy site.

c. No credit shall be awarded for hours earned within the professional experience curriculum of a board-approved college of pharmacy, nor for hours earned outside the professional experience curriculum but at the same time and location as hours earned for that professional experience curriculum.

4. Certification of Hours To and From Another Jurisdiction.

a. Interns enrolled in a board-approved college of pharmacy in Louisiana who earn hours of practical experience in another jurisdiction, as well as interns enrolled in a board-approved college of pharmacy in another jurisdiction who earn hours of practical experience in another jurisdiction, may transfer those hours to Louisiana under the following conditions:

i. the hours of practical experience shall be listed on an affidavit form supplied by the Louisiana Board of Pharmacy, signed by the preceptor pharmacist and the intern, and submitted to the Louisiana Board of Pharmacy for consideration of credit; and

ii. the board of pharmacy in the jurisdiction where the hours were earned shall certify those hours to the Louisiana Board of Pharmacy;

iii. the Louisiana Board of Pharmacy may grant credit for all hours that comply with the Louisiana Board of Pharmacy's requirements as delineated in this Section.

b. Upon written request by the pharmacy intern, the Louisiana Board of Pharmacy may certify practical experience hours earned in Louisiana to a board of pharmacy in another jurisdiction.

5. Credited hours of practical experience shall expire on the expiration date of the Intern Registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 26:2285 (October 2000), amended LR 29:2086 (October 2003).

Chapter 9. Pharmacy Practice

Repealed.

Chapter 11. Pharmacies

Subchapter A. General Requirements

§1101. Pharmacy

A. Qualification. Individuals, partnerships, corporations, limited liability companies, or associations desiring to operate a pharmacy in Louisiana, or outside the state where prescriptions drugs/devices are dispensed and delivered to Louisiana residents, shall execute an application for a pharmacy permit for their particular classification of pharmacy.

B. Appearance. The applicants, including the pharmacist-in-charge, may be required to personally appear before the board prior to a board decision on the permit application.

C. Pharmacy Permit

1. Initial. A completed pharmacy permit application shall be signed by the pharmacist-in-charge and the owner of the pharmacy and submitted to the board for approval.

2. Renewal. A pharmacy permit that has not been renewed by December 31 of each year shall expire and be null and void.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 23:1310 (October 1997), amended LR 29:2087 (October 2003).

§1103. Prescription Department Requirements

A. A prescription department of a pharmacy shall provide sufficient floor space allocated to ensure that drugs are compounded and dispensed in a well lighted, ventilated, climate controlled, and safely enclosed structure.

B. Restricted. A prescription department is a restricted area.

C. Square Footage. A prescription department that is new or remodeled on or after January 1, 2004 shall be not less than 300 total square feet, and shall be inaccessible to the public.

D. Prescription Counter. A prescription counter on which to compound or dispense medications shall have a working surface of not less than a minimum of 24 total square feet. The minimum unobstructed free working surface shall be kept clear at all times for the compounding or dispensing of prescriptions.

E. Prescription Aisle Space. The aisle space behind the prescription counter shall be not less than 30 inches in width.

F. Prescription Department Plumbing. A sink equipped with hot and cold running water shall be located within the prescription department. A sink located in a pharmacy restroom shall not be sufficient to satisfy this requirement.

G. Electronic Record Keeping System. An electronic record keeping system shall be utilized in a pharmacy department and shall be a complete, accurate, and readily retrievable prescription record keeping and storage system.

H. Drug Inventory

1. Storage. The pharmacy shall provide sufficient space on-site for proper storage of labels, prescription containers, and an adequate prescription inventory in order to compound and dispense prescription orders. Drugs that require special storage shall be properly stored.

2. Missing or Damaged Inventory. When significant drug inventory is missing or damaged for any reason, the pharmacy owner or pharmacist-in-charge shall file with the board a signed statement of the circumstances of such occurrence and evidence that the appropriate law enforcement authorities were notified as required by law.

3. Equipment. The pharmacy shall provide sufficient fixtures, equipment, and utensils to ensure that drugs are properly compounded and dispensed.

I. Pharmacy Security. The prescription department shall be adequately secured by the installation of partitions and secured entrances, which shall be locked by a pharmacist

and made inaccessible when the prescription department is closed. Any premises housing a prescription department shall be adequately secured by an alarm system.

J. Emergency Access. An additional key to the prescription department may be maintained in a secure location outside the prescription department for use during an emergency. A log shall be maintained with the key, indicating the name of each non-pharmacist using this key, the date and time of entry, and the nature of the emergency.

K. References. A printed copy of the *Louisiana Board of Pharmacy Laws, and Regulations* shall be maintained and readily available within the prescription department of a pharmacy. The pharmacy shall maintain access to current and appropriate reference materials pertinent to the pharmacy practice, including but not limited to, pharmacology, drug interactions, dosing, toxicity, and patient counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997), amended LR 29:2087 (October 2003).

§1105. Pharmacist-in-Charge

A. An initial and renewal pharmacy permit application shall designate and identify the licensed pharmacist-in-charge.

B. Authority and Accountability. The pharmacist-in-charge shall be ultimately responsible for complete supervision, management, and compliance with all federal and state pharmacy laws and regulations pertaining to the practice of pharmacy of the entire prescription department. This responsibility necessarily includes accountability for any violation involving federal or state laws or regulations occurring within the prescription department supervised by a pharmacist-in-charge.

C. Policy and Procedure Manual. The pharmacist-in-charge shall be responsible for the implementation of policies and procedures regarding quality pharmacy services including drug control, distribution, patient compliance accountability, inspection, and record keeping.

D. Circumvention. It is a violation of the pharmacy permit for any person to subvert the authority of the pharmacist-in-charge by impeding the management of the prescription department in the compliance of federal and state pharmacy laws and regulations.

E. Records. The pharmacist-in-charge shall be responsible for the proper maintenance of all prescription records. This necessarily includes electronic prescription records and the system's compliance and capacity to produce the required records.

F. Recall. The pharmacist-in-charge shall be responsible for the implementation of a recall procedure that can be readily activated to assure patient safety.

G. Discontinued and Outdated Drugs. The pharmacist-in-charge shall be responsible for the implementation of policies and procedures to ensure that discontinued or outdated drugs, or containers with worn, illegible, or missing labels are withdrawn from the pharmacy inventory.

H. Change of Pharmacist-in-Charge. Written notice to the board shall be required when the pharmacist-in-charge designation for a pharmacy has changed.

1. The permit holder shall notify the board within 10 days of the prior pharmacist-in-charge's departure date. The permit holder shall designate a new pharmacist-in-charge within 10 days of the departure of the prior pharmacist-in-charge.

2. The new pharmacist-in-charge shall afford the board written notice of his newly designated pharmacist-in-charge status within 10 days of the departure of the prior pharmacist-in-charge.

3. A pharmacist-in-charge who voluntarily leaves a pharmacy shall give written notice to the board and the owner of the permit at least ten days prior to this voluntary departure, unless replaced in a shorter period of time.

I. Affidavit of Responsibility and Duties. The designated pharmacist-in-charge shall sign an affidavit on a form supplied by the board indicating his understanding and acceptance of the duties and responsibilities of a pharmacist-in-charge. This notarized document shall be submitted to the board for inclusion in the pharmacy's record in the board office.

J. A pharmacist shall not hold a pharmacist-in-charge position at more than one pharmacy permit, unless approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997), amended LR 29:2088 (October 2003).

§1107. Pharmacy Operation

A. A pharmacist shall be on duty at all times during regular open hours of the pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997), amended LR 29:2088 (October 2003).

§1109. Pharmacist Temporary Absence

A. A pharmacist shall be considered to be temporarily absent from the prescription department when not within the confines of the prescription department but remains on-site.

B. The pharmacist may be temporarily absent from the prescription department for breaks and meal periods without closing the prescription department and removing pharmacy personnel providing the following conditions are met:

1. at least one certified pharmacy technician or pharmacy intern remains in the prescription department;
2. the pharmacist is available for emergencies;
3. the temporary absence does not exceed 30 minutes at a time and a total of 60 minutes in a 12-hour period;
4. the pharmacist reasonably believes that the security of the prescription department will be maintained in his absence; and
5. a notice is posted that includes the following information:
 - a. the fact that the pharmacist is taking a break; and
 - b. the time the pharmacist will return.

C. If the pharmacist, in his professional judgment, determines it necessary, all personnel shall be removed from the pharmacy and the pharmacy shall be secured for the duration of the temporary absence, and notice shall be posted indicating the pharmacy is closed.

D. During a temporary absence, certified pharmacy technicians or pharmacy interns may continue to process prescription orders, provided that no orders processed during the pharmacist's temporary absence be removed from the prescription department prior to the final check by the pharmacist.

E. If the pharmacist is absent less than five minutes from the prescription department, this absence is not considered a "temporary absence" within the meaning of this Chapter and will not require a posted notice, provided the prescription department's security is not compromised.

F. If at any time the pharmacist deems it necessary to leave the on-site facility, the pharmacy shall be closed in accordance with §1111.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 27:2237 (December 2001) effective January 1, 2002, amended LR 29:2088 (October 2003)

§1111. Pharmacist Absence

A. A pharmacist is considered absent from the prescription department when he is not in the prescription department and is off-site.

B. When a pharmacist is absent from the prescription department, the prescription department must be securely closed and made inaccessible. A sign shall be displayed in a conspicuous position in front of the prescription department giving notice of closure. The sign shall be at least 8 1/2 x 11 inches with the following wording in black letters at least one inch high: PRESCRIPTION DEPARTMENT CLOSED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 24:692 (April 1998), amended LR 29:2089 (October 2003).

§1113. Mechanical Drug Dispensing Devices

A. Dispensing of prescription drugs directly to a patient or caregiver by mechanical devices or machine is prohibited. This prohibition shall not apply to automated medication systems as defined and provided for in Chapter 12 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 29:2089 (October 2003).

§1115. Advertising

A. False, fraudulent, deceptive, or misleading advertising as prohibited by R.S. 37:1241 of the Pharmacy Practice Act and this Section shall include, but is not limited to, any public misrepresentation done or made with the knowledge, whether actual or constructive, that is untrue or illegal, or is said to be done falsely when the meaning is that the party is in fault for its error. Actual or constructive knowledge as used in this context shall include intentionally, negligently, mistakenly, or accidentally representing an untrue fact.

B. No person shall carry on, conduct, or transact business under a name which contains a part thereof the words "pharmacist", "pharmacy", "apothecary", "apothecary shop", "chemist's shop", "drug store", "druggist", "drugs", or any word or words of similar or like import, or in any

manner by advertisement, circular, poster, sign, or otherwise describe or refer to a place of business by the terms of "pharmacy", "apothecary", "apothecary shop", "chemist's shop", "drug store", "drugs", or any word or words of similar or like import, unless the place of business is a pharmacy validly permitted by the board.

C. Pharmacies and pharmacists are prohibited from advertising professional ability, experience, integrity, professional qualifications, or soliciting professional practice by means of providing prescribers of prescriptions with prescription forms imprinted with any material referring to a pharmacy or pharmacist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 29:2089 (October 2003).

§1117. Centralized Prescription Processing

A. Centralized prescription processing is the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, drug utilization review, claims adjudication, refill authorizations, and therapeutic interventions.

B. Labeling. All drugs dispensed to a patient that have been filled via a centralized prescription processing system shall bear a label containing an identifiable code that provides a complete audit trail of the dispensing of the drug and pharmacy primary care activities.

C. Requirements

1. A pharmacy may only perform or outsource centralized prescription processing services provided the parties involved:

a. have the same owner; or

b. have a written contract outlining the services to be provided and the responsibilities and accountabilities of each party in fulfilling the terms of said contract in compliance with federal and state laws and regulations, and share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to fill or refill a prescription drug order.

2. The parties performing or contracting for centralized prescription processing services shall maintain a policy and procedure manual and documentation that implementation is occurring in a manner that shall be made available to the board for review upon request and that includes the following:

a. the maintenance of appropriate records to identify the responsible pharmacist(s) in the dispensing and counseling processes;

b. the maintenance of a mechanism for tracking the prescription drug order during each step in the dispensing process;

c. the maintenance of a mechanism to identify on the prescription label all pharmacies involved in dispensing the prescription drug order; and

d. the provision of adequate security to protect the confidentiality and integrity of patient information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2089 (October 2003).

Subchapter B. Pharmacy Records

§1119. Availability and Inspection

A. Pharmacy records shall be available and readily retrievable upon request for board inspection and review.

B. All records required by the laws and regulations of the board shall be provided to the board, or its agent, within 72 hours of request, unless a shorter period is required, as determined by the board or its agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2090 (October 2003).

§1121. General Record Keeping

A. Requirements. A pharmacy shall maintain complete, accurate, and readily retrievable prescription drug records. All prescription drug records shall be available for board review upon request.

B. Accountability. The holder of the pharmacy permit and the pharmacist-in-charge shall account for all prescription drug transactions, consisting of:

1. acquisition recordsCinvoice receipts of drugs acquired;
2. disposition recordsCprescription orders dispensed or drugs sold; and
3. inventory recordsCdrugs in current possession.

C. Retention. All records required in this Section and by Louisiana law shall be retained for a minimum of two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2090 (October 2003).

§1123. Records

A. Acquisition Records. Prescription drug acquisition records shall be required, and shall consist of documented invoices from manufacturers, wholesalers, distributors, brokers, or other sources of supply.

B. Inventory Records. Accurate and readily retrievable records regarding prescription drug acquisition invoices, distribution, and inventories shall be maintained and available for accountability and retained at the pharmacy premises. Inventories of controlled dangerous substances shall be required, where applicable, and maintained at the pharmacy.

C. Prescription Records

1. Dispensing Prescription Files. Dispensed prescription orders shall be required and maintained for a minimum of two years from the last transaction/fill date by the pharmacy, constituting proof of dispensing by adequate prescription files properly documented with the proper medical practitioner's authority and the following information:

- a. patient's name, address, and telephone number;
- b. prescriber's name, address, telephone number, and if applicable, the Drug Enforcement Administration (DEA) registration number and signature;
- c. drug name, dosage form, strength, and quantity prescribed, as well as quantity dispensed when in variance with the original order;

d. number of prescription refills authorized by the prescriber;

- e. prescription number;
- f. original dispensing date; and
- g. pharmacist's name or initials.

2. Prescription Refill Records. The following information shall be readily retrievable from the electronic record keeping system:

- a. date of refill;
- b. quantity dispensed when in variance with original order; and
- c. pharmacist's name, initials, or identification code.

D. Electronic Record Keeping System. An electronic record keeping system shall be utilized in a pharmacy and shall be a complete, accurate, readily retrievable prescription record keeping and storage system. An electronic record keeping system shall meet the following requirements.

1. Retrieval. The system shall provide on-line retrieval via screen or hard-copy printout of original prescription order information for those prescription orders that are currently authorized for refilling.

2. Summary. The system shall be capable of producing a daily hard-copy summary of controlled dangerous substance transactions.

3. Refills. The system shall be capable of recording and providing the dates of prescription refills and the identity of the pharmacist refilling those prescriptions.

4. Patient Profile. The system shall be capable of producing a patient profile that shall contain the following minimum information: patient's name and address/location, name of drug, dosage form, strength, route and frequency of administration, and pharmacist's identification.

5. Original Prescription Records. The prescription hard copy shall represent the original written order or original oral prescription reduced to written form manually or electronically produced by the pharmacist, and shall meet the record keeping requirements of this Chapter.

6. Maintenance. The original written prescription, or the written form of an oral prescription, shall be retained on file, in numerical order, for a minimum of two years from the date of dispensing or the date of the last refill dispensed.

7. Prescription Refill Information. Records of refills shall be entered into the electronic record keeping system.

8. Record. A report of all original or refilled prescriptions dispensed shall be maintained, and shall include the following:

- a. prescription number;
- b. date of initial dispensing of the original prescription and the date(s) of refilling;
- c. total number of prescription refills dispensed to date or retrievable refill history on a visual mode of display as an alternative to appearing on the hard-copy printout;
- d. patient's name;
- e. patient's address, if required;
- f. the authorized prescriber's name;
- g. authorized prescriber's address, if required;
- h. the name, strength, dosage form, and quantity of the drug dispensed; and
- i. the last name and initial of the dispensing pharmacist.

9. Backup Support System. The electronic record keeping system shall be capable of being reconstructed in

the event of an electronic or computer malfunction or unforeseen accident resulting in the destruction of the system or the information contained therein. To prevent the accidental loss of electronic records, an adequate backup system shall be maintained. Backup support systems shall be updated at least once daily.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2090 (October 2003).

§1125. Security

A. The electronic record keeping system shall provide adequate safeguards against improper, illegal, or unauthorized manipulation or alteration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2091 (October 2003).

§1127. Register

A. The pharmacy shall maintain a register in which each individual pharmacist dispensing a prescription shall sign a log each day, attesting to the fact that the information entered into the electronic record keeping system has been reviewed that day, and is correct as stated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2091 (October 2003).

§1129. Confidentiality

A. A pharmacist shall provide adequate security to prevent indiscriminate or unauthorized access to confidential information. If confidential health information is not transmitted directly between a pharmacist and a practitioner, but is transmitted through a data communication device, the confidential health information may not be accessed, maintained, or altered by the operator of the data communication device. Confidential information is privileged and may be released only subject to federal privacy laws and regulations, and subject to applicable Louisiana statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2091 (October 2003).

Subchapter C. Pharmacy Opening, Closing, Change of Ownership, and Change of Location Procedures

§1131. Pharmacy Opening Procedures

A. The board has established the following procedures as a prerequisite to the opening of any pharmacy.

1. Application Form. The applicant shall obtain a Pharmacy Permit Application and Louisiana Controlled Dangerous Substance License Application from the board. The completed form(s) shall be signed by the pharmacist-in-charge and returned to the board office, with appropriate fees, not less than 30 days prior to the anticipated opening of the pharmacy.

2. Inspection. After the board has reviewed and approved the application, a board compliance officer shall conduct an on-site inspection of the premises.

3. Compliance. Upon receipt of satisfactory evidence that the applicant is in complete compliance, the board shall issue a pharmacy permit and, if requested, a Louisiana Controlled Dangerous Substance License.

D. DEA Registration. If applicable, the applicant shall obtain the appropriate application from the DEA, and then return said form, with appropriate fees, to the DEA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2091 (October 2003).

§1133. Pharmacy Closing Procedures

A. A pharmacy permit holder shall notify the public and the board prior to discontinuing a prescription department operation, or upon petitioning for bankruptcy.

1. Public Notice. The holder of a pharmacy permit shall post a closing notice in a conspicuous place in the front of the prescription department, and at all public entrance doors to the pharmacy. The closing notice to the public shall be posted not less than ten days prior to the anticipated date of closure, and the notice shall contain the following minimum information:

a. the anticipated date of closure of the prescription department;

b. the anticipated date of transfer or relocation of prescription files, if different than closure date;

c. the name and address of the pharmacy to which the prescription files will be transferred; and

d. a statement that if a patient objects to the transfer of their prescription files to the intended recipient pharmacy, the patient shall make alternative arrangements for the transfer of their prescription files to another pharmacy prior to the anticipated file transfer date.

2. Board Notice. The holder of a pharmacy permit shall send written notice to the board not less than ten days prior to the anticipated date of closure, and the notice shall include the following minimum information:

a. the anticipated date of closure of the prescription department;

b. the name and address of the permitted pharmacy operating within a reasonably close proximity of the closing pharmacy that shall be the custodian of the transferred prescription files; and

c. any prescription drug sale or transfer, with a complete drug inventory including recipient's name and address and/or seizure action, sequestration, executory process, public auction, liquidation, creditor assignment, and bankruptcy.

3. Disposition of Inventory

a. Drugs Listed in Schedule II. These drugs shall be either returned to the supplier or transferred to an authorized registrant, accompanied by an executed DEA Form 222, or its successor. Alternatively, these drugs shall be inventoried on the DEA Form 41 (Registrants Inventory of Drugs Surrendered), or its successor, and then either returned to the regional DEA office, or destroyed pursuant to permission from the DEA or agent of the board. The permit holder shall retain triplicate copies of returns, transfers, and/or destructions.

b. Drugs Listed in Schedules III, IV, or V. These drugs shall be either returned to the supplier or transferred to

an authorized registrant, accompanied by appropriate inventory records. Alternatively, these drugs shall be inventoried on the DEA Form 41, or its successor, and then either returned to the regional DEA office, or destroyed pursuant to permission from the DEA or agent of the board.

c. All Other Prescription Drugs. These drugs shall be returned to the supplier, transferred to an authorized registrant, or destroyed.

4. Surrender of Pharmacy Permit and Louisiana Controlled Dangerous Substance License. The holder of the permit and license shall surrender same to the board upon closing, accompanied by written confirmation of the:

a. surrender of unused DEA order forms and the DEA registration certificate to the regional DEA office with a memorandum indicating the closing date of the prescription department;

b. location of applicable records of controlled dangerous substance and other prescription drugs, order forms, inventories, acquisitions, and purchase records, with commitment to store such records for not less than two years, and to make such records available for inspection by an agent of the board; and

c. removal of all pharmacy signage from the property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2091 (October 2003).

§1135. Pharmacy Change of Ownership Procedures

A. The holder of a pharmacy permit shall notify the board, in writing, prior to the transfer of ownership, in order for the board to complete an inspection of the pharmacy premises.

1. A change of ownership of a pharmacy is evident under the following conditions:

a. sale of a pharmacy;

b. death of a sole proprietor;

c. the addition or deletion of one or more partners in a partnership;

d. bankruptcy sale; or

e. a 50 percent, or more, change in ownership of a corporation, limited liability company, or association since the issuance of the original permit or the last renewal application.

2. The new owner(s) of the pharmacy shall submit a properly completed pharmacy permit application, with appropriate fee, to the board.

3. Upon receipt of the new permit, the seller shall:

a. notify the board of the transaction, including the identity of the new owner(s);

b. surrender the DEA registration certificate to the regional DEA office, indicating the date of the change in ownership of the prescription department; and

c. surrender the voided pharmacy permit and voided Louisiana Controlled Dangerous Substance License to the board.

4. Pharmacy permits are not transferable from the original holder(s) of the permit to the new owner(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2092 (October 2003).

§1137. Pharmacy Change of Location Procedures

A. The board has established the following procedures for changing the location of any pharmacy that does not involve a change of ownership or divestiture of that pharmacy.

1. The permit holder shall notify the board in writing prior to relocating a prescription department operation.

2. The proper notice procedures for the relocation shall include the notice requirements applicable to pharmacy closing procedures noted in this subpart. However, a permit cancellation is not required for a permit holder that is moving to a location in reasonably close proximity to the original location and planning to continue pharmacy operations without a transfer of ownership. The permit holder shall notify the board for the proper re-designation of permit address and re-issuance of that same permit.

3. Inspection. A board compliance officer shall conduct an on-site inspection of the premises following receipt of written notice in the board office and prior to the opening of a prescription department in a new location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2092 (October 2003).

Chapter 13. Community Pharmacy

§1301. Definition

A. A *community pharmacy* is a pharmacy located in a non-institutional environment, and is licensed by the board to conduct professional pharmacy practice activities in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2092 (October 2003).

§1303. Permit

A. A community pharmacy permit shall be required to operate a pharmacy in this state, and to dispense prescription drugs to patients in Louisiana. The permit shall be applied for, and renewed, in the manner prescribed by the board in Chapter 11 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2092 (October 2003).

§1305. Compliance

A. A community pharmacy shall comply with all applicable federal and state pharmacy laws and regulations, including Chapter 11 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2092 (October 2003).

Chapter 15. Hospital Pharmacy

§1501. Cross References

A. For all regulations that apply to permitted hospital pharmacies concerning pharmacy practices not specifically stated in this Chapter, refer to Chapter 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:808 (October 1988), amended LR 29:2093 (October 2003).

§1503. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section.

Hospital Pharmacy A pharmacy department permitted by the board and located in a hospital licensed pursuant to R.S. 40:2100 et seq. For the purposes of this Chapter, a hospital pharmacy is one example of a primary care treatment modality pharmacy.

Registered Patient A person receiving health care services within a hospital facility.

Unit Dose The packaging of individual prescription doses in a suitable container that have been properly labeled as to the identity of the generic, chemical, or trade name of the drug; strength; lot number; and expiration date. All unit doses qualify as "prepackaging" as used in this Chapter. However, all prepackaging is not necessarily in "unit dose" packaging.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2093 (October 2003).

§1505. Hospital Pharmacy Permit

A. A hospital pharmacy permit shall be required to operate a pharmacy department located within a hospital for registered patients in that hospital. The permit shall be applied for, and renewed, in the manner prescribed by the board in Chapter 11 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2093 (October 2003).

§1507. Pharmacist-in-Charge

A. The pharmacist-in-charge of a hospital pharmacy permit shall have had at least two years of experience as a licensed and practicing pharmacist prior to accepting the appointment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2093 (October 2003).

§1509. Drug Distribution Control

A. The hospital pharmacist-in-charge shall be responsible for the safe and efficient procurement, receipt, distribution, control, accountability, and patient administration and management of drugs. The staff of the hospital facility shall cooperate with the pharmacist-in-charge in meeting drug control requirements in ordering, administering, and accounting for pharmaceuticals.

1. Procedure Manual. The pharmacist-in-charge shall maintain written procedures for the safe and efficient distribution of pharmaceutical products and delivery of

pharmacy care. An updated copy shall be available for board inspection upon request.

2. Inventories. The pharmacist-in-charge shall:

a. perform an annual inventory on all controlled dangerous substances; and

b. maintain a perpetual inventory of Schedule I and II controlled dangerous substances.

3. Records. The pharmacist-in-charge shall maintain adequate records regarding the use and accountability of controlled dangerous substances. Proof of use records for controlled dangerous substances shall be maintained separately and in such a manner as to be readily retrievable. These records shall specify the following minimum information:

a. drug name, strength, and quantity;

b. dose;

c. full name of patient;

d. date and time of administration; and

e. name of person administering the drug.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2093 (October 2003).

§1511. Prescription Drug Orders

A. The pharmacist shall review the practitioner's medical order prior to dispensing the initial dose of medication, except in cases of emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2093 (October 2003).

§1513. Labeling

A. All drugs dispensed by a hospital pharmacy, intended for use within the facility, shall be dispensed in appropriate containers and adequately labeled as to identify patient name and location, drug name(s) and strength, and medication dose(s). Additionally, compounded preparations and sterile preparations shall be labeled with the expiration or beyond-use date, initials of the preparer, and the pharmacist performing the final check.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2093 (October 2003).

§1515. Ambulance Service Drugs

A. Hospital pharmacies that supply prescription drugs, including any controlled dangerous substances, to any authorized ambulance service or emergency medical service shall maintain proper records to ensure control, proper utilization, inventory, and accountability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2093 (October 2003).

§1517. Pharmacist Absence/Drug Cabinet

A. Pharmacist Absence. In the absence of a licensed pharmacist, admittance to the pharmacy by unauthorized persons is prohibited. When the pharmacy is closed, a pharmacist shall be on emergency call.

B. Drug Cabinets. In the absence of a licensed pharmacist, arrangements shall have been formulated in advance by the pharmacist-in-charge to provide drugs for the patients by the use of drug cabinets.

1. Emergency Use. A drug cabinet is solely intended for the proper and safe storage of needed drugs when the pharmacy is closed and shall be available for emergency use by authorized hospital personnel only.

2. Security. The drug cabinet shall be a securely constructed and locked enclosure located outside the permitted pharmacy ensuring access to authorized personnel only.

3. Inventory. The pharmacist-in-charge shall be responsible for the selection and quantity of the drugs to be maintained in the drug cabinet and shall maintain a perpetual inventory of any controlled dangerous substances stored in the drug cabinet.

4. Labeling. Medications stored in a drug cabinet shall be properly labeled.

5. Quantities. Prepackaged drugs shall be available in amounts sufficient for immediate therapeutic or emergency requirements.

6. Accessibility. Written medical practitioner's orders and proof of use, if applicable, shall be provided when a drug cabinet inventory is utilized.

7. Inspection. Medications stored in a drug cabinet shall be inspected every 30 days.

8. Policy Manual. A policy and procedure manual shall be maintained to implement the drug cabinet requirements and is to be made available to the board upon request for inspection and approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2093 (October 2003).

§1519. Drug Returns

A. In a hospital with a permitted hospital pharmacy on site, drugs may be returned to the pharmacy in accordance with good professional practice standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2094 (October 2003).

§1521. Off-Site Pharmacy Services

A. Availability. Pharmacy services may be procured contractually from outside the hospital for inpatient administration.

B. Contractual agreements shall provide for:

1. emergencyCthe pharmacy provider shall be available for on-call for emergency pharmacy services;

2. storageCadequate drug storage facilities shall be provided to the pharmacy provider;

3. labelingCprescription drugs supplied to hospital inpatients shall be properly labeled to ensure that adequate control, supervision, and recall of medication are monitored;

4. contractual pharmacy serviceCoff-site contractual pharmacy services rendered to the hospital shall be in accordance with federal and state laws, rules, and regulations.

C. A pharmacy providing off-site contractual pharmacy services to a hospital shall not be considered a hospital pharmacy.

D. Medications. Prescription medications independently supplied to registered patients shall comply with all appropriate board regulations and statutes and/or hospital rules, regulations, and policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2094 (October 2003).

§1523. Outpatient Pharmacy Dispensing

A. Hospital outpatient dispensing shall require a separate pharmacy permit for the specialty classification(s) under these regulations. All records including the annual inventory of controlled dangerous substances for the outpatient pharmacy shall be maintained and kept separate and apart from that of the inpatient pharmacy, as the outpatient pharmacy may not acquire drugs through the hospital pharmacy permit under the provisions of the Robinson-Patman Act, 15 U.S.C. §13(c).

B. Nothing in this Section shall prohibit the dispensing of certain prescriptions from the hospital pharmacy, as allowed under the Robinson-Patman Act, 15 U.S.C. §13, including:

1. dispensing to the hospital inpatient for use in his treatment at the hospital;

2. dispensing to the patient admitted to the hospital's emergency facility for use in the patient's treatment at that location;

3. dispensing to the hospital outpatient for personal use on the hospital premises;

4. dispensing in the context of a genuine take-home prescription, intended for a limited and reasonable time as a continuation of, or supplement to, the treatment that was administered at the hospital to the recipient while an inpatient, an outpatient, or an emergency facility patient if the patient needs that treatment; or

5. dispensing to the hospital's physicians, employees, or its students for their personal use or for the personal use of their dependents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2094 (October 2003).

Chapter 17. Institutional Pharmacy

Subchapter A. General Requirements

§1701. Cross References

A. For all regulations that apply to permitted institutional pharmacies concerning pharmacy practices not specifically stated in this Chapter, refer to Chapter 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2094 (October 2003).

§1703. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

Institutional Facility Any organization whose primary purpose is to provide a physical environment for a patient to obtain health care services, including but not limited to a(n):

- a. convalescent home;
- b. nursing home;
- c. extended care facility;
- d. mental health facility;
- e. rehabilitation center;
- f. psychiatric center;
- g. developmental disability center;
- h. drug abuse treatment center;
- i. family planning clinic;
- j. penal institution;
- k. hospice;
- l. public health facility;
- m. athletic facility.

Institutional Pharmacy That physical portion of an institutional facility where drugs, devices, and other materials used in the diagnosis and treatment of an injury, illness, and disease are dispensed, compounded, and distributed and pharmacy primary care is provided, and is permitted by the board and is devoted exclusively to providing professional services to a patient in that institutional setting, other than a hospital.

Long Term Care Facility A nursing home, retirement center, mental care, or other facility or institution that provides extended health care to a residential patient, including but not limited to health care facilities licensed by the Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2094 (October 2003).

§1705. Institutional Pharmacy Permit

A. An institutional pharmacy permit shall be required to operate a pharmacy department located within an institutional facility, other than a hospital, for residents or patients of that institutional facility. The permit shall be applied for, and renewed, in the manner prescribed by the board in Chapter 11 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2095 (October 2003).

§1707. Drug Cabinet

A. In the absence of a licensed pharmacist, arrangements shall have been formulated in advance by the pharmacist-in-charge to provide drugs for the residents/patients by the use of drug cabinets. When the pharmacy is closed, a pharmacist shall be on emergency call.

1. **Emergency Use.** A drug cabinet is solely intended for the proper and safe storage of needed drugs when the pharmacy is closed and shall be available for emergency use by authorized facility personnel only.

2. **Security.** The drug cabinet shall be a securely constructed and locked enclosure located outside the permitted pharmacy area ensuring access by authorized personnel only.

3. **Inventory.** The pharmacist-in-charge shall be responsible for the selection and quantity of drugs to be maintained in the drug cabinet and shall maintain a perpetual

inventory of any controlled dangerous substances. Medications shall be available in quantities sufficient only for immediate therapeutic needs.

4. **Labeling.** Medications stored in a drug cabinet shall bear a label with the following minimum information:

- a. drug name;
- b. dosage form;
- c. strength;
- d. name of manufacturer and/or distributor;
- e. manufacturer's lot or batch number;
- f. pharmacist's initials; and
- g. expiration date, according to United States Pharmacopeia guidelines.

5. **Accountability.** Documented medical practitioner's orders and proof of use shall be provided when any of the drug cabinet inventory is utilized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2095 (October 2003).

Subchapter B. Emergency Drug Kits

§1709. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section:

Emergency Drug Kit (EDK) For long-term care facilities or other board-approved sites, other than a hospital, means a drug kit containing designated emergency drugs which may be required to meet the immediate therapeutic needs of a resident or patient.

Emergency Drugs Those drugs which may be required to meet the immediate therapeutic needs of patients and which are not available from any other authorized source in sufficient time to prevent risk of harm to patients or residents because of delay resulting from obtaining such medications from such other source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2095 (October 2003).

§1711. Emergency Drug Kit Permit

A. A long-term care facility, institutional facility without an institutional pharmacy, or other board-approved site, other than a hospital, that desires to maintain an Emergency Drug Kit shall obtain an EDK permit from the board.

B. **Permit Application and Requirements.** Application for an EDK permit shall be made on a form provided by the board.

1. The provider pharmacy shall apply to the board for an EDK permit. The administrator of the applicant facility shall also sign the application for said permit. Upon compliance with the required provisions, the provider pharmacy shall be issued a permit by the board for the provider pharmacy to establish and maintain an EDK in the facility.

2. The provider pharmacy shall be a Louisiana-licensed pharmacy.

3. Only one provider pharmacy shall be assigned to and be responsible for each EDK.

4. EDK permits are institutional facility-specific and not transferable.

5. A separate permit is required for each EDK.

6. The original EDK permit shall be conspicuously displayed at the provider pharmacy. A copy of the EDK permit shall be maintained in the room where the EDK is located.

C. Pharmacist-in-Charge. The pharmacist-in-charge of the provider pharmacy shall be the pharmacist-in-charge of the EDK. The maintenance of the EDK shall at all times remain the responsibility of the pharmacist-in-charge.

D. Renewal. Each EDK permit issued by the board shall be renewed annually by the provider pharmacy, at the time designated by the board. If an EDK permit is not renewed by July 1 of each year, the existing permit shall expire and become null and void.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2095 (October 2003).

§1713. Emergency Drug Kit Requirements

A. Emergency Use. An EDK is solely intended for the immediate therapeutic emergency needs of a resident or patient.

B. Security. The EDK shall be tamper-evident and shall be maintained in a secure enclosure located within the institutional facility and shall be available for emergency use by authorized personnel only.

C. Exterior Identification and Labeling. The EDK shall be clearly labeled to indicate that it is an emergency drug kit. In addition, the attached exterior label shall have an inventory of contents and contact information of the provider pharmacy.

D. Labeling. Medications stored in an EDK shall bear a label with the following minimum information:

1. drug name;
2. dosage form;
3. strength;
4. name of manufacturer and/or distributor;
5. manufacturer's lot or batch number; and
6. expiration date, according to United States

Pharmacopeia guidelines.

E. Storage. All drugs in an EDK shall be stored to ensure a proper environment for the preservation of the drugs. If federal or state laws or regulations require adequate storage outside the EDK, documentation shall be kept with the EDK properly identifying this special storage requirement and drug(s) involved.

F. Policies and Procedures. Policies and procedures shall be maintained by the provider pharmacy and the applicant facility to implement the EDK requirements.

G. Accountability. Documented medical practitioner's orders and proof of use shall be provided when an EDK inventory is utilized. Medication administered to patients from the EDK shall be documented with the following information, in accordance with the institutional facility policy manual, that shall be immediately reduced to writing and a copy delivered to the provider pharmacy:

1. name of the resident patient;
2. drug name, strength, and quantity;
3. nature of the emergency;
4. time and date of administration;
5. name of person administering the medication; and
6. name of prescriber authorizing the medication.

H. Records. Records shall be readily retrievable and comply with applicable federal and state laws and regulations.

I. Inspection

1. The provider pharmacy shall inspect the EDK every 30 days, plus or minus five days. Proper documentation of these inspections, EDK inventory, and all records of use shall be maintained and made available to the board upon request.

2. The EDK shall be available for inspection by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2096 (October 2003).

Subchapter C. Drug Abuse Treatment Center Pharmacies

§1715. Purpose

A. The board may issue a pharmacy permit for a drug abuse treatment center operating in the state of Louisiana where drugs are dispensed and pharmacy primary care is provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2096 (October 2003).

§1717. Cross References

A. For all regulations that apply to drug abuse treatment center pharmacies concerning pharmacy practices not specifically stated in this Subchapter, refer to Chapter 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2096 (October 2003).

§1719. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section:

Administer or Administration Cthe direct application of a drug to the body of a patient or research subject by injection, inhalation, ingestion, or any other means.

Authorized Personnel Cindividuals who, within the scope of their authority granted by mutual agreement of the drug abuse treatment center's pharmacist-in-charge and director, are granted access to the drug abuse treatment center's pharmacy department as part of his duties.

Dispense or Dispensing Cthe interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient. "Dispense" necessarily includes a transfer of possession of a drug or device to the patient or the patient's agent.

Drug Abuse Treatment Center Cany establishment, facility, or institution, public or private, whether operated for profit or not, which primarily offers, or purports to offer, maintain, or operate facilities for the residential or outpatient diagnosis, care, treatment, or rehabilitation of two or more non-related individuals, who are patients as defined herein, excluding, however, any hospital or mental hospital

otherwise licensed by the Department of Health and Hospitals.

*Patient or Client*Ca person who is dependent on, or otherwise suffering physically or mentally from the use of, or abuse of, controlled dangerous substances and who requires continuing care of a drug abuse treatment center.

*Perpetual Inventory*Ca computer record of inventory kept continuously up to date by detailed entries of all incoming and outgoing items. This includes inventory on hand, purchases, and dispensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2096 (October 2003).

§1721. Drug Abuse Treatment Center Pharmacy Permit

A. A drug abuse treatment center pharmacy permit shall be required to operate a pharmacy department located within a drug abuse treatment facility for patients of that facility. The permit shall be applied for, and renewed, in the manner prescribed by the board in Chapter 11 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2097 (October 2003).

§1723. Minimum Security Controls for Drug Abuse Treatment Centers

A. Persons enrolled in a drug abuse treatment center shall wait for their prescriptions in an area physically separated from the controlled dangerous substance (CDS) storage and dispensing area. This requirement shall be enforced by the drug abuse treatment center physician(s), pharmacist(s), and employees.

B. All CDS used in a drug abuse treatment center shall be securely locked and accessible to authorized personnel within that facility only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2097 (October 2003).

§1725. Records and Reports of Drug Abuse Treatment Centers

A. All persons licensed by the Department of Health and Hospitals to operate a drug abuse treatment center and who possess a Drug Enforcement Administration (DEA) registration to purchase, possess, and use CDS shall keep the following records:

1. records of CDS received by approved persons, including date of receipt, name and address of distributor, type and quantity of such drugs received, and the signature of the individual receiving the CDS. A duplicate invoice or separate itemized list furnished by the distributor will be sufficient to satisfy this record requirement, provided it includes all required information and is maintained in a separate file. In addition, duplicate copies of federal order forms for CDS listed in Schedule II must be retained; and

2. records of CDS administered or dispensed, including date of administration or dispensing, name of patient, signature of person administering or dispensing, type and quantity of drug, and such other information as may be required by state and federal laws and regulations.

B. Records of perpetual inventories shall be kept at the permitted site as prescribed by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2097 (October 2003).

Chapter 19. Nuclear Pharmacy

§1901. Cross References

A. For all regulations that apply to permitted nuclear pharmacies concerning pharmacy practices not specifically stated in this Chapter, refer to Chapter 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2097 (October 2003).

§1903. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section.

*Nuclear Pharmacy*Ca board-approved facility limited to procuring, possessing, compounding, or dispensing radiopharmaceuticals or any interventional drug used in conjunction with nuclear medicine procedures. This definition shall not apply to hospital nuclear medicine departments and nuclear medicine clinics operating under the auspices of a licensed practitioner of medicine.

*Radiation*Ca any electromagnetic or ionizing radiation including gamma rays, X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles.

*Radioactive Material*Ca any solid, liquid, or gas that emits radiation spontaneously.

*Radiopharmaceutical*Ca drug that is a radioactive material and includes any drug that is intended to be made radioactive, as defined by the appropriate federal agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2097 (October 2003).

§1905. Nuclear Pharmacy Permit Requirements

A. A nuclear pharmacy permit shall be required to operate a nuclear pharmacy department. The permit shall be applied for, and renewed, in the manner prescribed by the board in Chapter 11 of these regulations.

1. A nuclear pharmacy shall have a Louisiana Radioactive Material License.

2. Nuclear Pharmacist-in-Charge. A pharmacist-in-charge of a nuclear pharmacy operation shall be a qualified nuclear pharmacist, as defined in §1907, and shall be responsible for the entire nuclear pharmacy operation.

3. Structural Requirements. A nuclear pharmacy shall provide adequate space separate and apart from other areas commensurate with the scope of service and with the following space requirements.

a. Dispensing Area. The radiopharmaceutical compounding or preparation area shall be separate and apart from other facility areas and shall be not less than 300 square feet, which may include storage and decay areas. The pharmacy area shall be sufficient to provide a work environment for the safe handling, compounding, and

dispensing of radiopharmaceuticals. This area shall be separate and inaccessible to non-pharmacy personnel.

b. Delivery and Receipt Area. An area designated for the delivery and receipt of materials requiring after-hours handling by non-pharmacy personnel. This area shall be separate from the dispensing area of the pharmacy.

c. Storage Area. A storage area sufficient to maintain the scope and content of unused and returned material for decay and disposal commensurate with the compounding and dispensing requirements of the facility.

d. Maintenance. A nuclear pharmacy shall be well maintained, clean, orderly, lighted, and properly ventilated.

e. Plumbing. A sink equipped with hot and cold running water shall be located within the nuclear pharmacy. A sink located in a pharmacy lavatory or restroom shall not be sufficient to satisfy this requirement.

4. Equipment. There shall be adequate equipment commensurate with the scope of services required and provided by the facility.

5. Supplies. There shall be adequate supplies commensurate with the compounding and dispensing needs of the facility, as well as any other services provided for by the facility, including appropriate shielding and safety devices and any other supplies necessary for the safe and legal transport of materials compounded or dispensed from the facility. There shall be appropriate supplies for the safe handling and disposal of used and unused material by employees and staff of the facility. The appropriateness of personal protective equipment shall be reviewed on an annual basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2097 (October 2003).

§1907. Qualified Nuclear Pharmacist

A. A qualified nuclear pharmacist shall be a currently licensed pharmacist in the state of Louisiana who is listed on a Louisiana Radioactive Material License.

B. Continuing Education. Nuclear pharmacists shall obtain at least five hours of the total required hours of American Council on Pharmaceutical Education (ACPE) or board-approved continuing education on those applications and procedures specific to nuclear pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2098 (October 2003).

§1909. Labeling

A. Immediate Container. The immediate container that comes into direct contact with the radiopharmaceutical shall be labeled with:

1. the standard radiation symbol;
2. the words "Caution Radioactive Material";
3. the prescription control number;
4. the name of the radionuclide; and
5. the amount of radioactive material contained, in the appropriate unit of measure.

B. Outer Container. In addition to any labeling requirements of the board for non-radiopharmaceuticals, the outer container of a radiopharmaceutical to be dispensed shall also be labeled with:

1. the standard radiation symbol;
2. the words "Caution Radioactive Material";
3. the name of the radionuclide;
4. the chemical form;
5. the amount of material contained, in the appropriate unit of measure;
6. the liquid volume expressed in cubic centimeters or milliliters, where applicable; and
7. the calibration time and date for the amount of radioactivity contained.

C. The labeling requirements in this Section shall not apply to transport containers.

D. Practitioner Administered Compounds Labeling. All practitioner administered compounds, as defined in Chapter 25 of these regulations, shall be dispensed or delivered in a suitable container with a label containing the following information:

1. pharmacist's name or initials;
2. pharmacy's name, address, and telephone number;
3. preparation name;
4. prescription number or pharmacy-assigned identification number;
5. lot number;
6. beyond-use date;
7. strength and concentration;
8. practitioner's name; and
9. special storage requirements, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2098 (October 2003).

§1911. Quality Control and Quality Assurance

A. Quality control of radiopharmaceuticals is required on all radiopharmaceuticals compounded in a nuclear pharmacy. Appropriate quality assurance procedures shall be developed and followed for the procurement, compounding, and dispensing of all pharmaceuticals in a nuclear pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2098 (October 2003).

Chapter 21. Charitable Pharmacy

§2101. Cross References

A. For all regulations that apply to permitted charitable pharmacies concerning pharmacy practices not specifically stated in this Chapter, refer to Chapter 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2098 (October 2003).

§2103. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section.

Charitable Pharmacy The practice of pharmacy at a site where prescriptions are dispensed by a charitable organization free of charge to appropriately screened and qualified patients. For the purposes of the Louisiana Administrative Code and the Pharmacy Practice Act, a "charitable pharmacy" may at times also be referred to as a "provisional permitted pharmacy."

Qualified Patients Those patients who are without sufficient funds to obtain medications as determined by strict screening guidelines based on needs assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2098 (October 2003).

§2105. Charitable Pharmacy Permit Requirements

A. A charitable pharmacy permit shall be required to operate a pharmacy in the state to dispense free prescription drugs to qualified patients in Louisiana. This permit shall only be granted to an organization qualified as a charitable organization by the U. S. Internal Revenue Code under 26 U.S.C. §501(c)(3), or its successor.

B. Compliance. The charitable pharmacy shall be in compliance with applicable federal, state, and local laws and/or regulations pertaining to the practice of pharmacy.

C. Guidelines. Strict screening guidelines based on needs assessment shall be developed by the charitable pharmacy to determine who is eligible as a qualified patient.

D. Review. All screening guidelines, needs assessments, and revisions shall be submitted to the board upon request.

E. Patient Dispensing. Prescriptions filled in a charitable pharmacy may only be dispensed to qualified patients of that pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2099 (October 2003).

§2107. Prescription Drug Samples

A. A charitable pharmacy shall not sell, purchase, or trade prescription drug samples.

B. A charitable pharmacy shall only possess and dispense prescription drug samples if the following conditions are satisfied:

1. the prescription drug samples are dispensed at no charge to qualified patients of that charitable pharmacy; and
2. the prescription drug samples are possessed in compliance with the Federal Prescription Drug Marketing Act of 1987, 21 U.S.C. §301 et seq., or its successor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 23:1307 (October 1997), amended LR 29:2099 (October 2003).

§2109. Medication Transfers

A. In facilities licensed by the Department of Health and Hospitals where United States Pharmacopeia (USP) storage requirements can be assured, prescription drugs, except controlled dangerous substances, dispensed in unit dose or in individually sealed doses may be transferred to a permitted charitable pharmacy for relabeling and dispensing to indigent patients, free of charge, pursuant to a valid prescription order.

1. The pharmacist-in-charge of the permitted charitable pharmacy shall be responsible for determination of suitability of the product for reuse.

a. No product where integrity cannot be assured shall be accepted for re-dispensing by the pharmacist.

b. A re-dispensed prescription medication shall be assigned the expiration date stated on the package.

c. No product shall be re-dispensed more than one time.

2. Pursuant to a voluntary agreement between the facility licensed by the Department of Health and Hospitals and a pharmacy holding a charitable pharmacy permit from the board, prescription drugs, except controlled dangerous substances, may be transferred from the facility to the pharmacy provided the following procedures are satisfied.

a. The physical transfer shall be accomplished by an individual authorized to do so by the charitable pharmacy.

b. The patient from whom the prescription medication was obtained shall document their consent for the donation; the consent shall be maintained on file at the facility.

c. The patient's name, prescription number, and any other identifying marks, shall be obliterated from the packaging prior to removal from the facility.

d. The drug name, strength, and expiration date shall remain on the medication package or label.

e. An inventory list of the drugs shall accompany the drugs being transferred. The list shall contain, at a minimum, the medication name, strength, quantity, and expiration date.

f. Expired drugs shall not be transferred. In the event expired drugs are received by a charitable pharmacy, the pharmacist-in-charge shall destroy them as required by law.

B. Under no circumstances may these transferred medications be re-distributed to another location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2099 (October 2003).

§2111. Prohibitions

A. A charitable pharmacy shall not purchase, possess, trade, distribute, or dispense controlled dangerous substances.

B. A charitable pharmacy shall not be operated, or in any way associated, with any for-profit pharmacy permitted in this state or any other jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2099 (October 2003).

Chapter 23. Out-of-State Pharmacy

§2301. Purpose

A. Out-of-state pharmacies shall comply with the provisions of this Chapter in order to be and remain permitted to operate in Louisiana as an out-of-state pharmacy.

B. This Chapter applies to any place physically located outside the state of Louisiana that provides services in the state of Louisiana where prescription drugs are dispensed and/or pharmacy care is provided to residents of the state of Louisiana. This includes, but is not limited to, pharmacies providing goods and services via U.S. mail carrier, commercial carrier, the Internet, and/or directly to Louisiana residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1380 (December 1992) effective January 1, 1993, amended LR 29:2099 (October 2003).

§2303. Out-of-State Pharmacy Requirements

A. The out-of-state pharmacy shall hold a current pharmacy permit in good standing in the state(s) in which it is located and/or practicing pharmacy.

B. Each pharmacist dispensing drugs into Louisiana shall be licensed as a pharmacist in good standing in the state(s) where he practices.

C. Every out-of-state pharmacy doing business in Louisiana by dispensing and delivering prescription drugs and devices to Louisiana residents shall designate a resident agent and a registered office in Louisiana for the service of process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1380 (December 1992) effective January 1, 1993, amended LR 29:2100 (October 2003).

§2305. Out-of-State Pharmacy Permit Requirements

A. The out-of-state pharmacy shall apply for a permit and annual permit renewals on forms provided by the board. The board may require such information as reasonably necessary to carry out the provisions of R.S. 37:1232, including, without limitation, the name, address, and position of each officer and director of a corporation or of the owners, if the pharmacy is not a corporation.

B. The out-of-state pharmacy shall pay an annual permit fee as defined in R.S. 37:1184.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1380 (December 1992), LR 29:2100 (October 2003).

§2307. Pharmacist-in-Charge

A. Designation. A pharmacist licensed by the Louisiana Board of Pharmacy shall be named in the application as the pharmacy's pharmacist-in-charge for the Louisiana permit and shall be responsible for the pharmacy permit's compliance.

B. The pharmacist-in-charge shall have an active and current license in the state in which he is practicing, and further, shall not have any restrictions that prohibit the position of pharmacist-in-charge.

C. Authority and Accountability. The designated pharmacist-in-charge of the pharmacy and the pharmacy owner(s), or partners, or corporate officer(s) of the permit holder, where applicable, shall be responsible for the complete supervision, management, and compliance with all federal and state pharmacy laws and regulations pertaining to the practice of pharmacy of the entire prescription department. This responsibility necessarily includes accountability for any violation involving federal or state laws or regulations occurring within the prescription department supervised by a pharmacist-in-charge.

D. Policy and Procedure Manual. The pharmacist-in-charge shall be responsible for the development and maintenance of policies regarding quality pharmacy services including drug control, distribution, patient compliance accountability, inspection, and record keeping.

E. Circumvention. It is a violation of the pharmacy permit for any person to subvert the authority of the pharmacist-in-charge by impeding the management of the prescription department in the compliance of federal and state pharmacy laws and regulations.

F. Records. The pharmacist-in-charge is responsible for the proper maintenance of all prescription records. This necessarily includes electronic prescription records and the system's compliance and capacity to produce the required records.

G. Recall. The pharmacist-in-charge shall be responsible for the implementation of a recall procedure that can be readily activated to assure patient safety.

H. Discontinued or Outdated Drugs. The pharmacist-in-charge shall be responsible for the implementation of policies and procedures to ensure that discontinued drugs, outdated drugs, or drug containers with worn, illegible, or missing labels are withdrawn from the pharmacy inventory.

I. Change of Pharmacist-in-Charge. Written notice to the board shall be required when the pharmacist-in-charge designation for a pharmacy has changed.

1. The permit holder shall notify the board within 10 days of the prior pharmacist-in-charge's departure date. The permit holder shall designate a new pharmacist-in-charge within 10 days of the departure of the prior pharmacist-in-charge.

2. The new pharmacist-in-charge shall afford the board written notice of his newly designated pharmacist-in-charge status within 10 days of the departure of the prior pharmacist-in-charge.

3. A pharmacist-in-charge who voluntarily leaves a pharmacy shall give written notice to the board and the owner of the permit at least 10 days prior to this voluntary departure, unless replaced in a shorter period of time.

J. Affidavit of Responsibility and Duties. The designated pharmacist-in-charge shall sign an affidavit on a form supplied by the board indicating his understanding and acceptance of the duties and responsibilities of a pharmacist-in-charge. This notarized document shall be submitted to the board for inclusion in the pharmacy's record in the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1381 (December 1992), LR 29:2100 (October 2003).

§2309. Applicable Laws and Regulations

A. Louisiana pharmacy laws and regulations shall be applicable to regulate the practice of pharmacy for that portion of the out-of-state pharmacy's Louisiana pharmacy practice or operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1381 (December 1992), LR 29:2100 (October 2003).

§2311. Inspection

A. The facilities and records of the out-of-state pharmacy shall be subject to inspection by the board or its designated agent(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1381 (December 1992), LR 29:2101 (October 2003).

§2313. Records

A. Records shall be maintained for not less than two years.

B. The pharmacy shall maintain records of drugs dispensed to Louisiana residents in such a manner so as to be identifiable, readily retrievable, and available upon request. Said records shall be made available for inspection by the board. The pharmacy permit holder or the pharmacist-in-charge shall produce within 72 hours any information, documentation, and/or records requested by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1381 (December 1992), LR 29:2101 (October 2003).

§2315. Counseling Services

A. The pharmacy shall maintain an incoming toll-free telephone number for use by Louisiana consumers during regular office hours. Readily available telephone counseling services shall be provided that are consistent with the reasonable standard of due care. This telephone number, plus other numbers available for use, shall be printed on each container of drugs dispensed to Louisiana residents. The toll-free telephone number shall have sufficient extensions to provide reasonable access to incoming callers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1381 (December 1992), LR 29:2101 (October 2003).

§2317. Out-of-State Pharmacy Closure Procedures

A. Notice. Notice shall be afforded the board not less than ten days prior to the anticipated closure date of an out-of-state pharmacy. Said notice shall include the location of all transferred prescription files for Louisiana residents.

B. Permit. The out-of-state pharmacy permit holder shall surrender the pharmacy permit to the board upon closure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1381 (December 1992), LR 29:2101 (October 2003).

§2319. Jurisdiction

A. Out-of-state pharmacies soliciting, receiving, and dispensing and delivering prescription drugs and devices, including controlled dangerous substances as defined in 21 U.S.C. 1, et seq. and 21 CFR 1 et seq., or their successors, and delivered to residents in Louisiana constitutes doing business in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 18:1381 (December 1992), LR 29:2101 (October 2003).

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter A. General Requirements

§2501. Prescription Drugs and Devices

A. Prescription Drugs or Devices. A prescription drug or device is a medication or mechanism that may only be dispensed by a pharmacist on the order of a licensed practitioner and shall bear the "Rx Only" notation or any other designation of similar import required by law on the label of a commercial container.

1. Dispensing. Prescription drugs or devices shall be dispensed only by a Louisiana-licensed pharmacist.

2. Possession. Prescription drugs or devices shall be procured and possessed in the course of the practice of pharmacy by a permitted pharmacy.

3. Storage. Prescription drugs or devices shall be stored in a permitted pharmacy under the immediate control and responsibility of a pharmacist.

B. Misbranded Drugs

1. Misbranded drugs are:

a. those drugs whose labeling is false or misleading in any particular manner; or

b. those drugs whose label does not bear the name and address of the manufacturer, packer, or distributor, and does not have an accurate statement of the quantities of the active ingredients; or

c. those drugs without an accurate monograph; or

d. those drugs meeting the qualifications for misbranded drugs as noted in the Federal Food, Drug, and Cosmetic Act, or its successor.

2. It is unlawful to possess or dispense misbranded drugs.

C. Adulterated Drugs

1. Adulterated drugs are contaminated medicinal substances having deleterious foreign or injurious materials, which fail to meet safety, quality, and/or purity standards.

2. It is unlawful to possess or dispense adulterated drugs.

D. Expired Drugs. Expired drugs shall not be dispensed and shall be removed from the pharmacy drug inventory.

E. Recalled Drugs. Recalled drugs shall be removed from the pharmacy inventory immediately upon notice. Recalls are classified as:

1. Class ICa situation in which there is a strong likelihood that the use of, or exposure to, a violative product will cause serious adverse health consequences or death;

2. Class IICa situation in which use of, or exposure to, a violative product may cause temporary or medically reversible adverse health consequences or where the probability of serious adverse health consequences is remote;

3. Class IIICa situation in which the use of, or exposure to, a violative product is not likely to cause adverse health consequences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2101 (October 2003).

§2503. Drug Returns

A. Drugs dispensed on prescription to a patient shall not be accepted for return, exchange, or re-dispensing by any pharmacist or pharmacy after such drugs have been removed from the pharmacy premises where they were dispensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2102 (October 2003).

§2505. Investigational Drugs

A. All investigational drugs stored or dispensed by any pharmacy shall conform to appropriate and applicable federal and state laws and regulations pertaining to their use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2102 (October 2003).

§2507. Veterinary Prescription Drugs

A. Veterinary prescription drugs are prescription medications for animal use prescribed by a licensed veterinarian pursuant to a valid veterinarian-client-patient relationship and dispensed by a licensed pharmacist to the veterinarian's client, for a legitimate medical purpose, that are unsafe for unsupervised use as defined in 21 CFR §201.105, or its successor.

B. Dispensing Requirements. Veterinary prescription drugs shall be exclusively dispensed by a duly licensed pharmacist upon the order of a licensed veterinarian, unless otherwise provided by law.

C. Labeling Requirements. Veterinary prescription drugs shall be dispensed in an appropriate container, and in addition to the labeling requirements in Chapter 11 of these regulations, shall contain the following information:

1. the commercial label inscription "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian"; and
2. the client's name and patient's animal species.

D. Prescription Form Requirements. Prescriptions issued by a licensed veterinarian shall conform to §2511 of these regulations.

E. Storage. Veterinary prescription drugs shall be maintained in the prescription department of a pharmacy, and shall be kept separate and apart from drugs intended for human use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2102 (October 2003).

§2509. Prescription Devices

A. In the interest of public health, safety, and welfare, the board may, from time to time, restrict the sale of certain devices to be dispensed only by a licensed pharmacist after a legitimate medical need has been demonstrated. A legitimate medical need includes the prevention of the transmission of communicable diseases.

B. Pharmacy Device. A pharmacy device is an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component or accessory, which is required

under federal law to bear the label "Caution: Federal or State law requires dispensing by or on the order of a physician," and/or "Rx Only", or other designation of similar import.

1. Hypodermic Apparatus. Hypodermic means any syringe, needle, instrument, device, or implement intended or capable of being adopted for the purpose of administering drugs by subcutaneous, intramuscular, or intravenous injection.

a. Sale. Hypodermic syringes and/or needles shall be sold or distributed only by a licensed pharmacist, physician, dentist, veterinarian, podiatrist, embalmer, drug wholesaler, surgical supplier, or other legally authorized distributor.

b. Storage. Hypodermic syringes and/or needles shall be stored in the prescription department or in another secure area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2102 (October 2003).

Subchapter B. Prescriptions

§2511. Prescriptions

A. Definitions. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

*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.

B. Written Prescriptions. A written prescription shall conform to the following format.

1. The prescription form shall not be less than four inches by five 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, Drug Enforcement Administration (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; and

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 product 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 consents 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 Subparagraph B.6.c.

E. Exclusion. The provisions of this Section shall not apply to medical orders written for patients in facilities licensed by the Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2102 (October 2003).

§2513. Prescription Receipt and Verification

A. Receipt of a Prescription

1. Written. A pharmacist may receive and dispense a prescription that has been written and/or signed by the practitioner.

2. Oral. A pharmacist may receive and dispense a prescription that has been orally communicated by the practitioner when the prescription has been reduced to hard copy.

3. Electronic Transmission. A pharmacist may receive a prescription via electronic or other means, and then reduce to hard copy, if necessary.

B. Verification. Verification of the accuracy and authenticity of any prescription is the responsibility of the pharmacist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2103 (October 2003).

§2515. Prescriptions Based Upon Electronic Questionnaires

A. A prescription issued solely on the results of answers to an electronic questionnaire, in the absence of a documented patient evaluation including a physical examination, is issued outside the context of a valid physician-patient relationship, and is not a valid prescription.

B. If a pharmacist has reasons to suspect that a prescription was authorized solely on the results of an electronic questionnaire and in the absence of a documented patient evaluation including a physical examination, the pharmacist shall ascertain if that practitioner's standard of practice allows that practitioner to authorize a prescription under such circumstances. Reasons to suspect that a prescription may have been authorized in the absence of a valid physician-patient relationship, or in violation of the practitioner's standard of practice, include:

1. the number of prescriptions authorized on a daily basis by the practitioner;

2. the manner in which the prescriptions are authorized by the practitioner or received by the pharmacy, i.e., electronically;

3. the geographical distance between the practitioner and the patient(s);

4. knowledge by the pharmacist that the prescription was issued solely as a result of answers to an electronic questionnaire; or

5. knowledge by the pharmacist that the pharmacy he works for directly or indirectly participates in an internet site that markets prescription drugs to the public.

C. A pharmacist who has reasons to suspect that a prescription may have been authorized in the absence of a

valid physician-patient relationship, or otherwise in violation of the prescriber's standard of practice, shall not fill such prescription until he has obtained proof to a reasonable certainty of the validity of such prescription.

D. A pharmacist who dispenses prescription drugs in violation of this Section is not acting in the best interest of the patient and is dispensing outside the course of the professional practice of pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2103 (October 2003).

§2517. Prescription Dispensing

A. Prescription dispensing means the issuance, by a licensed pharmacist, of one or more doses of medication in a suitable container, properly labeled for subsequent administration, and shall consist of the following procedures or practices:

1. receiving and interpretation of the prescription order;
2. assembling the drug products and an appropriate container;
3. preparing the prescription by compounding, mixing, counting, or pouring;
4. affixing the proper label to the final container;
5. patient counseling as required; and
6. transfer of possession.

B. Unless otherwise allowed by law, drugs dispensed on prescription to a patient shall not be accepted for return, exchange, or re-dispensing by any pharmacist or pharmacy after such drugs have been removed from the pharmacy premises where they were dispensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2104 (October 2003).

§2519. Prescription Refills

A. Refill Authorization. Prescription refills may be dispensed only with the prescriber's authorization, as indicated on the original prescription order. In the absence of the authorized practitioner's instructions on the original prescription, the prescription shall be considered non-refillable. When all refills authorized on the original prescription have been dispensed, then authorization from the prescribing practitioner shall be obtained prior to dispensing.

B. Controlled Dangerous Substances

1. The refilling of a prescription for a drug listed in Schedule II is prohibited.
2. A prescription for a drug listed in Schedule III, IV, or V may be refilled up to five times, if so indicated at the time issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2104 (October 2003).

§2521. Emergency Refills

A. Using sound professional judgment, a pharmacist may refill adequate medication for a 72-hour regimen when an

emergency for medication has been adequately demonstrated and the prescribing practitioner is not available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2104 (October 2003).

§2523. Transfer of Prescription Information

A. The transfer of original and subsequent prescription information, for the purpose of refill dispensing, is permissible between pharmacies, subject to the following requirements and/or limitations.

1. The transfer of original prescription information for controlled dangerous substances listed in Schedules III, IV, or V between pharmacies is permissible on a one-time basis.

2. The transfer of prescription information for drugs not listed on Schedules II, III, IV, or V is permissible between pharmacies.

B. The required electronic record keeping system shall have a mechanism to prohibit the transfer of prescriptions for controlled dangerous substances that have been previously transferred, unless the pharmacy can electronically access the prescription drug records at the pharmacy from which the transfer is requested.

C. The original prescription that has been transferred shall be invalidated in the system for purposes of refilling, unless other pharmacies may electronically access the prescription drug records for purposes of transfer. All required information shall be maintained for a minimum of two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2104 (October 2003).

§2525. Prescription Expiration

A. A prescription for a drug other than a controlled dangerous substance shall expire one year after the date written.

B. A prescription for a controlled dangerous substance listed in Schedule II, III, IV, or V shall expire six months after the date written.

C. Expired prescriptions shall not be refillable or renewable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2104 (October 2003).

§2527. Prescription Labeling

A. An appropriate label shall be affixed to a proper container, and shall bear the following minimum information:

1. pharmacy's name, address, and telephone number;
2. prescription number;
3. authorized prescriber's name;
4. patient's name;
5. date dispensed;
6. drug name and strength;
7. directions for use, as indicated;
8. pharmacist's name or initials; and
9. cautionary auxiliary labels, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2104 (October 2003).

§2529. Pharmacy Prepackaging

A. *Prepackaging* is the preparation of medication in a unit-of-use container by a pharmacist in a pharmacy prior to the receipt of a prescription for ultimate prescription dispensing by a pharmacist in Louisiana.

B. Labeling. The label on the prepackaged container shall contain the following minimum information:

1. drug name;
2. dosage form;
3. strength;
4. quantity;
5. name of manufacturer and/or distributor;
6. manufacturer's lot or batch number;
7. date of preparation;
8. pharmacist's initials; and
9. expiration date according to United States

Pharmacopeia (USP) guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2105 (October 2003).

Subchapter C. Compounding of Drugs

§2531. Purpose and Scope

A. Purpose. The rules of this Subchapter describe the requirements of minimum current good compounding practices for the preparation of drug products by Louisiana-licensed pharmacists for dispensing and/or administration to patients.

B. Scope. These requirements are intended to apply to all compounded products, sterile and non-sterile, regardless of the location of the patient, e.g., home, hospital, nursing home, hospice, or physician's office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2105 (October 2003).

§2533. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section.

Biological Safety Cabinet Ca containment unit suitable for the preparation of low to moderate risk agents where there is a need for protection of the product, personnel, and environment, according to National Sanitation Foundation (NSF) Standard 49, or its successor.

Class 100 Environment Can atmospheric environment that contains fewer than 100 particles, of the size 0.5 microns or less in diameter, per cubic foot of air, according to Federal Standard 209E, or its successor.

Component Can ingredient used in the compounding of a drug product.

Compounding Cthe preparation, mixing, assembling, packaging, or labeling of a drug or device by a pharmacist for his patient as the result of a practitioner's prescription drug order or initiative based on the practitioner/patient/pharmacist relationship in the course of professional practice, or including the preparation of drugs

or devices in anticipation of prescription orders to be received by the compounding pharmacist based on routine, regularly observed prescribing patterns. Compounding does not include the compounding of drug products that are essentially copies of a commercially available product.

Cytotoxic Cany pharmaceutical that has the capability of killing living cells.

Practitioner Administered Compounds Cproducts compounded by a licensed pharmacist, upon the medical order of a licensed prescriber for administration by a prescriber for diagnostic or therapeutic purposes.

Sterile Compounding Ccompounding performed using established aseptic technique and utilizing a laminar air flow hood or other device capable of providing a sterile compounding environment. Sterile compounding shall be used when compounding parenteral medications or products, ophthalmic preparations, or any other preparation requiring sterile techniques.

Sterile Product Cany dosage form devoid of viable microorganisms including, but not limited to, parenterals, injectables, and ophthalmics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2105 (October 2003).

§2535. General Standards

A. Compounding Practices. Compounded medications may be prepared using prescription medications, over-the-counter medications, chemicals, compounds, or other components.

1. A pharmacy shall have written procedures as necessary for the compounding of drug products to assure that the finished products have the identity, strength, quality, and purity they are represented to possess.

2. All compounding shall be accomplished utilizing accepted pharmacy techniques, practices, and equipment.

3. Products or duplicates of products removed from the market for the purposes of safety shall not be used to compound prescriptions for human use.

B. Beyond Use Date. Compounded medications shall be labeled with a beyond use date of no more than 180 days, unless documentation on file supports a longer beyond use date.

C. Records and Reports. Any procedures or other records required to comply with this Section shall be maintained for a minimum of two years.

D. Compounding for Prescriber's Use. Pharmacists may prepare practitioner administered compounds for a prescriber's use with the following requirements:

1. an order by the prescriber indicating the formula and quantity ordered to be compounded by the pharmacist;

2. the product is to be administered by the prescriber and not dispensed to the patient; and

3. the pharmacist shall generate a label and sequential identification number for the compounded drug.

E. Anticipated Use Products. The pharmacist shall label any excess compounded product so as to reference it to the formula used and the assigned lot number and estimated beyond use date based on the pharmacist's professional judgment and/or other appropriate testing or published data.

F. Labeling of Compounded Products

1. For patient-specific compounded products, the labeling requirements of R.S. 37:1225, or its successor, as well as this Chapter, shall apply.

2. All practitioner administered compounds shall be packaged in a suitable container with a label containing, at a minimum, the following information:

1. pharmacy's name, address, and telephone number;
2. practitioner's name;
3. name of preparation;
4. strength and concentration;
5. lot number;
6. beyond use date;
7. special storage requirements, if applicable;
8. assigned identification number; and
9. pharmacist's name or initials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 23:1316 (October 1997), amended LR 29:2105 (October 2003).

§2537. Requirements for Compounding of Sterile Products

A. Board Notification. An applicant or pharmacy permit holder who wishes to engage in the practice of sterile product compounding shall notify the board prior to beginning that practice, and shall receive approval from the board.

B. Personnel

1. The pharmacist-in-charge shall be responsible for the following:

a. procurement, storage, compounding, labeling, dispensing, and distribution of all prescription drugs, devices, and related materials necessary in compounding and dispensing sterile products;

b. establishment of policies and procedures for the compounding and dispensing of sterile products. The policy and procedure manual shall be current, accessible to all staff, and available for inspection by the board upon request. The policy and procedure manual shall, at a minimum, include:

- i. policies and procedures for the compounding and dispensing of sterile products;
- ii. a quality assurance program for the purpose of monitoring patient care, adverse drug reactions, personnel qualifications, training and performance, product integrity, equipment, record keeping, facilities, infection control;
- iii. guidelines regarding patient education; and
- iv. procedures for the handling and disposal of cytotoxic agents, waste, and spills;

c. documentation of competency in aseptic techniques. The aseptic technique of each individual compounding and dispensing sterile products shall be observed and evaluated as satisfactory during orientation and training, and at least on an annual basis thereafter.

2. Training and Education. All individuals compounding and preparing sterile products shall:

- a. obtain practical and/or academic training in the compounding and dispensing of sterile products;
- b. complete a minimum of one hour of American Council on Pharmaceutical Education (ACPE) or board-approved continuing education, on an annual basis, related to sterile product compounding, dispensing, and utilization;

c. use proper aseptic technique in all sterile product compounding as defined by the pharmacy practice site's policy and procedure manual;

d. qualify through an appropriate combination of specific training and experience to operate or manipulate any item of equipment, apparatus, or device to which such persons will be assigned to use to compound and dispense sterile products; and

e. maintain in the pharmacy practice site a written record of initial and subsequent training and competency evaluations. The record shall contain the following minimum information:

- i. name of the individual receiving the training/evaluation;
- ii. date of the training/evaluation;
- iii. general description of the topics covered;
- iv. signature of the individual receiving the training/evaluation; and
- v. name and signature of the individual providing the training/evaluation.

C. Physical Requirements

1. The pharmacy shall have a designated area with entry restricted to designated personnel for preparing sterile products, and the designated area shall be:

a. structurally isolated from other areas with restricted entry or access and shall be configured in such a manner so as to avoid unnecessary traffic and airflow disturbances from activity within the controlled facility;

b. used only for the preparation of these sterile products; and

c. sufficient in size to accommodate a laminar air flow hood or other device capable of providing a sterile compounding environment and to provide for the proper storage of drugs and supplies under appropriate conditions of temperature, light, moisture, sanitation, ventilation, and security.

2. The pharmacy where sterile products are prepared shall have:

a. a sink with hot and cold running water that shall be located in, or adjacent to, the area where sterile products are compounded;

b. appropriate environmental control devices capable of maintaining at least Class 100 environment in the workplace where critical objects are exposed and critical operations are performed. These devices, e.g., laminar air flow hoods, and other zonal laminar flow hoods utilizing High Efficiency Particulate Air (HEPA) filters, shall be capable of maintaining Class 100 conditions during normal activity;

c. appropriate refrigeration for storing supplies and sterile products requiring refrigeration subsequent to their preparation and prior to their dispensing or administration to patients. The pharmacy shall maintain documentation of refrigeration integrity, in accordance with its policies and procedures;

d. appropriate disposal containers for used needles, syringes, and other sharps, and if applicable, for cytotoxic waste from the preparation of chemotherapy agents and infectious wastes from patients' homes; and

e. temperature-controlled delivery containers, when required.

3. The pharmacy shall maintain supplies adequate to ensure an environment suitable for the aseptic preparation of sterile products. Within the sterile compounding area, prescription drugs, devices, and related materials shall not be stored in shipping containers constructed of corrugated cardboard or other high particulate-producing materials.

4. The pharmacy shall maintain current reference materials related to sterile products accessible to all personnel.

D. Drug Handling. Any sterile compounded product shall be shipped or delivered to a patient in appropriate temperature-controlled delivery containers as defined by USP standards and appropriately stored.

E. Cytotoxic Drugs. In addition to the minimum standards for a pharmacy established by the board, the following requirements are established for pharmacies that prepare cytotoxic drugs, to insure the protection of the personnel involved.

1. All cytotoxic drugs shall be compounded in a vertical flow, Class II Biological Safety Cabinet. Other products shall not be compounded in this cabinet.

2. Personnel compounding cytotoxic drugs shall wear protective apparel, including disposable masks, gloves, and gowns with tight cuffs.

3. Personnel compounding cytotoxic drugs shall use appropriate safety and containment techniques.

4. Prepared doses of cytotoxic drugs shall:

a. be dispensed and labeled with proper precautions on the inner and outer containers or other device capable of providing a sterile environment; and

b. be shipped in a manner to minimize the risk of accidental rupture of the primary container.

5. Disposal of cytotoxic waste shall comply with all applicable federal, state, and local requirements.

6. A "Chemo Spill Kit" shall be readily available in the work area, and shall consist of appropriate materials needed to clean up spills of hazardous drugs. Personnel shall be trained in its appropriate use for handling both minor and major spills of cytotoxic agents.

F. Quality Control

1. An ongoing quality control program shall be maintained and documented that monitors personnel performance, equipment, and facilities. Appropriate samples of finished products shall be examined to assure that the pharmacy is capable of consistently preparing sterile products meeting specifications.

a. All clean rooms and laminar flow hoods shall be certified by an independent contractor according to federal standards for operational efficiency at least every six months. Appropriate certification records shall be maintained.

b. Written procedures shall be developed requiring sampling if/when microbial contamination is suspected.

c. When bulk compounding of sterile solutions is performed using non-sterile chemicals, extensive end-product testing shall be documented prior to the release of the product from quarantine. This process shall include appropriate tests for particulate matter and testing for pyrogens.

d. Written justification shall be maintained of the chosen "beyond use" dates for compounded products.

e. Documentation shall be maintained of quality control audits at regular, planned intervals, including infection control and sterile technique audits.

G. Labeling

1. All practitioner administered sterile compounds shall be packaged in a suitable container, and shall bear a label with the following minimum information:

a. pharmacy's name, address, and telephone number;

b. preparation name;

c. strength and concentration;

d. lot number;

e. beyond use date;

f. practitioner's name;

g. assigned identification number;

h. special storage requirements, if applicable; and

i. pharmacist's name or initials.

2. The labeling for all other sterile compounds shall be in accordance with the prescription labeling requirements in §1125 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2106 (October 2003).

Subchapter D. Controlled Dangerous Substances

§2539. Controlled Dangerous Substances (CDS)

A. Purpose. The purpose of this Section is to prevent the diversion of controlled dangerous substances by prohibiting the manufacturing, distributing, dispensing, or administering of controlled dangerous substances not in the usual course of professional practice.

B. Classification. Controlled dangerous substances are specifically identified by reference, as provided in R.S. 40:961 et seq., or its successor, and 21 CFR §1308 et seq., or its successor. Schedules I, II, III, IV, and V shall, unless and until added to pursuant to R.S. 40:961 et seq., or its successor, consist of the drugs or other substances, by whatever official name, common or usual name, chemical name, or trade name designated, listed in R.S. 40:961 et seq., or its successor.

C. Definition and Composition. Controlled dangerous substances are categorized into various schedules based upon the degrees of potential for abuse, as follows:

1. Schedule I:

a. the drug or other substance has a high potential for abuse;

b. the drug or other substance has no currently accepted medical use in treatment in the United States; and

c. there is a lack of accepted safety for use of the drug or other substance under medical supervision.

2. Schedule II:

a. the drug or other substance has a high potential for abuse;

b. the drug or other substance has a currently accepted medical use in treatment in the United States, or a currently accepted medical use with severe restrictions; and

c. abuse of the drug or other substance may lead to severe psychological or physical dependence.

- 3. Schedule III:
 - a. the drug or other substance has a potential for abuse less than the drugs or other substances listed in Schedules I and II;
 - b. the drug or other substance has a currently accepted medical use in treatment in the United States; and
 - c. abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

- 4. Schedule IV:
 - a. the drug or other substance has a low potential for abuse relative to the drugs or other substances listed in Schedule III;
 - b. the drug or other substance has a currently accepted medical use in treatment in the United States; and
 - c. abuse of the drug or other substance may lead to limited psychological or physical dependence relative to the drugs or other substances listed in Schedule III.

- 5. Schedule V:
 - a. the drug or other substance has a low potential for abuse relative to the drugs or other substances listed in Schedule IV;
 - b. the drug or other substance has a currently accepted medical use in treatment in the United States; and
 - c. abuse of the drug or other substance may lead to limited psychological or physical dependence relative to the drugs or other substances listed in Schedule IV.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2107 (October 2003).

§2541. CDS License Requirements

A. A pharmacy shall apply to the board in order to receive a license to dispense controlled dangerous substances.

1. Initial Application. The Louisiana Board of Pharmacy Controlled Dangerous Substance license shall be applied for by an applicant on the board application form and approved by the board prior to opening any pharmacy having controlled dangerous substances.

2. Renewal. The CDS license shall be renewed annually. A CDS license that has not been renewed by December 31 of each year shall expire and be null and void.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2108 (October 2003).

§2543. CDS Prescription/Order Requirements

A. Controlled Dangerous Substance Prescription Form.

1. Prescriptions for controlled dangerous substances shall be written or reduced to writing with ink, indelible pencil, printed, or electronically generated, and shall bear the following minimum information:

- a. patient information:
 - i. full name; and
 - ii. address and telephone number;
- b. practitioner information:
 - i. full name;
 - ii. address and telephone number;
 - iii. Drug Enforcement Administration (DEA) registration number; and

- iv. original handwritten signature for drugs listed in Schedule II;
- c. drug information:
 - i. name;
 - ii. dosage form;
 - iii. strength;
 - iv. quantity prescribed; and
 - v. directions for use.

2. All prescriptions for controlled dangerous substances shall be dated as of, and signed on, the day when issued.

B. Prescriptions for Drugs Listed in Schedule II

1. Prescriptions for drugs listed in Schedule II shall be signed by an authorized practitioner.

2. Prescriptions for drugs listed in Schedule II shall not be filled beyond six months after the date of issue.

3. Authorization for Emergency Dispensing. A pharmacist may dispense a prescription for a drug listed in Schedule II in the case of an emergency situation upon a prescribing practitioner's verbal authorization within the following limitations.

- a. Emergency. An emergency situation exists when:
 - i. administration is necessary for immediate treatment;
 - ii. an appropriate alternate treatment is not available; and
 - iii. the prescribing practitioner cannot reasonably provide a written prescription.

b. Adequate Regimen. The pharmacist shall dispense a limited amount of the drug required to treat the patient during the emergency period.

c. Reduced to Writing. An oral prescription in an emergency situation shall be immediately reduced to writing, in proper form, with the required information, by the dispensing pharmacist with the dispensing pharmacist's signature.

d. Verification. A pharmacist shall verify the authenticity of an oral prescription for a drug listed in Schedule II. If the prescribing practitioner is not known to the pharmacist, he shall make a reasonable effort to determine that the oral authorization came from an authorized practitioner. Such efforts may include, but are not limited to, a callback to the prescribing practitioner, and/or other good faith efforts to insure the practitioner's authority is valid.

e. Prescription Retrieval. A written prescription for the drug listed in Schedule II, signed by the authorized practitioner, in proper form with the required information, shall be delivered to the dispensing pharmacist from the practitioner within seven days from the date the oral prescription was issued. The written prescription may be delivered to the pharmacist in person or by mail, but if delivered by mail it shall be postmarked within the seven-day period. Upon receipt, the dispensing pharmacist shall attach this prescription to the oral emergency prescription that had earlier been reduced to writing. The pharmacist shall notify the nearest office of the DEA if the prescribing practitioner fails to deliver a written prescription within the specified time frame.

4. Refills Prohibited. The refilling of a prescription for a drug listed in Schedule II is prohibited.

5. Prescriptions Received Via Facsimile. A practitioner or the practitioner's agent may transmit a prescription written for a drug listed in Schedule II to a pharmacy via facsimile equipment, provided that the original signed prescription is presented to the pharmacist for review prior to the actual dispensing of the prescription, unless one of the following exceptions applies.

a. A prescription written for a drug listed in Schedule II to be compounded for direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion may be transmitted by the practitioner or practitioner's agent to the dispensing pharmacy by facsimile. The facsimile may serve as the original written prescription.

b. A prescription written for a drug listed in Schedule II for a resident of a long-term care facility may be transmitted by the practitioner or practitioner's agent to the dispensing pharmacy by facsimile. The facsimile may serve as the original written prescription.

c. A prescription written for a drug listed in Schedule II for a hospice or terminally ill patient may be transmitted by the practitioner or practitioner's agent to the dispensing pharmacy. The practitioner or the practitioner's agent shall note on the prescription that the patient is a hospice or terminally ill patient. The facsimile may serve as the original written prescription.

6. Partial Filling. The partial filling of a prescription for a drug listed in Schedule II is permissible if the pharmacist is unable to supply the full quantity prescribed in a written or emergency oral prescription and the pharmacist makes a notation of the quantity supplied on the face of the written prescription or written record of the oral emergency prescription.

a. The remaining portion of the prescription may be filled within 72 hours of the first partial filling. However, if the remaining portion is not filled within the 72 hour period, the pharmacist shall notify the prescribing practitioner.

b. No further quantity may be supplied beyond 72 hours without a new prescription.

c. Partial Filling for Patient of Long-Term Care Facility or for Patient with Terminal Illness. A prescription for a drug listed in Schedule II for a patient in a long-term care facility or for a patient with a terminal illness may be filled in partial quantities.

i. For each partial filling, the dispensing pharmacist shall record on the prescription whether the patient resides in a long-term care facility or has a terminal illness, and then record on the back of the prescription (or on another appropriate record, uniformly maintained, and readily retrievable) the following information:

(a). the date of the partial filling;

(b). quantity dispensed; and

(c). name or initials of the dispensing pharmacist.

ii. The remaining portion may be filled within 60 days of the first partial filling. However, if the remaining portion is not filled within the 60-day period, the pharmacist shall notify the prescribing practitioner.

iii. No further quantity may be supplied beyond the 60-day period without a new prescription.

7. Completion of Prescription. After consultation with the prescribing practitioner, and the appropriate documentation thereof, a pharmacist may complete, but not alter, a prescription.

a. A pharmacist may complete the following information on a prescription:

i. patient's address;

ii. drug strength;

iii. drug quantity; and/or

iv. directions for use.

b. A pharmacist may add the following information to a prescription:

i. patient's address;

ii. drug dosage form; and/or

iii. prescriber's DEA registration number.

c. A pharmacist shall not make changes to the following information on a prescription:

i. patient's name;

ii. date of issue;

iii. drug name, except for generic interchange as allowed by law; or

iv. practitioner signature.

C. Prescriptions for Drugs Listed in Schedules III, IV, or V. Prescriptions for drugs listed in Schedules III, IV, or V may be dispensed upon receipt of oral, written, or electronic prescriptions of an authorized practitioner.

1. Oral Prescriptions for Drugs Listed in Schedules III, IV, or V. Oral prescriptions shall be promptly reduced to writing with the required information.

2. Refilling of Prescriptions for Drugs Listed in Schedules III, IV, or V. Such prescriptions are refillable, with appropriate authorization.

3. Prescription Form for Drugs Listed in Schedules III, IV, or V. Such prescriptions shall conform to the following requirements.

a. Refill Authority. A practitioner shall orally approve or inscribe refill instructions on the face of the prescription. In the absence of specific refill instructions, the prescription is not refillable.

b. Refill Period. Such prescriptions shall not be refilled more than the number of times authorized by the prescribing practitioner, and in no case shall they be refilled more than five times within six months of the date of issue. Such prescriptions shall expire and become null and void six months after the date of issue, or after five authorized refills, whichever occurs first.

c. Partial Filling. Partial filling of such prescriptions is permissible, provided that:

i. each partial filling is recorded in the same manner as a refill;

ii. the total quantity dispensed in all partial fillings does not exceed the total quantity prescribed; and

iii. no dispensing shall occur after six months beyond the date of issue.

d. Refill Records. The dispensing pharmacist shall note in the required electronic record keeping system refill information, indicating the date, with quantity or variation of quantity dispensed, and pharmacist's name or initials.

D. Labeling of Dispensed Controlled Dangerous Substances. In addition to the labeling requirements enumerated in Chapter 11 of these regulations, a prescription

label for a controlled dangerous substance shall include the federal transfer caution label.

E. CDS Prescription Files. Prescription files for controlled dangerous substances shall be maintained on the pharmacy premises.

1. Prescription Files for Drugs Listed in Schedule II. Such prescriptions shall be maintained separately from other prescriptions, and shall contain the name or initials of the dispensing pharmacist.

2. Prescription Files for Drugs Listed in Schedules III, IV, or V. Such prescriptions shall be maintained separately from other prescriptions, or in the alternative, may be filed in numerical sequence with either prescriptions for drugs listed in Schedule II, or all other prescriptions. The name, or initials, of the dispensing pharmacist, as well as the dispensing date, shall be placed on, or attached to, the prescription.

3. Prescription files for all controlled dangerous substances shall be maintained in readily available and retrievable manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2108 (October 2003).

§2545. CDS Dispensing

A. Controlled dangerous substances shall only be dispensed by a licensed pharmacist at a permitted pharmacy in the usual course of professional practice pursuant to a valid prescription or order. A valid prescription or order is a prescription or order issued for a legitimate medical purpose by a practitioner acting in the usual course of his professional practice.

B. Professional Conduct. A license, registration, certification, permit, or any other designation deemed necessary to practice, or assist in the practice, of pharmacy may be subject to discipline when deviating from primary or corresponding responsibility to avert the following prohibited acts.

1. Primary Responsibility

a. Drug Diversion. Attempted, actual or conspired dispensing, distributing, administering, or manufacturing of a controlled dangerous substance not pursuant to a valid prescription or order while acting in the course of professional pharmacy practice is prohibited.

b. Possession. Actual or conspired possession of a controlled dangerous substance not pursuant to a valid prescription or order issued for a legitimate medical purpose by an authorized practitioner in the usual course of professional practice.

2. Corresponding Responsibility

a. Medical Purpose. The prescribing practitioner has the primary responsibility to issue a prescription for a controlled dangerous substance for a legitimate medical purpose, but a corresponding responsibility rests with the pharmacist dispensing said prescription to ascertain that said prescription was issued for a legitimate medical purpose in the usual course of professional practice.

b. Authenticity. A pharmacist shall exercise sound professional judgment to ascertain the validity of prescriptions for controlled dangerous substances. If, in the

pharmacist's professional judgment, a prescription is not valid, that pharmacist shall not dispense said prescription.

3. Forged Prescriptions. It is unlawful for a pharmacist to forge a prescription, or to dispense a forged prescription, for a controlled dangerous substance. The pharmacist shall exercise professional diligence in determining the validity of a prescription as to the practitioner's authority and/or patient's identity, in order to prevent misrepresentation, fraud, deception, subterfuge, conspiracy, or diversion of controlled dangerous substances.

4. Altered Prescriptions. It is unlawful for a pharmacist to personally alter a prescription, or to dispense an altered prescription, for a controlled dangerous substance, except as provided by law or this Chapter.

C. Accountability. The pharmacist-in-charge, the registrant/permittee, and/or other designated responsible parties, shall be accountable for shortages of controlled dangerous substances or inconsistencies indicated in an audit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2110 (October 2003).

§2547. CDS Record Keeping

A. The permittee shall maintain readily retrievable, complete, and accurate transaction records, as follows:

1. DEA order forms;

2. receiving invoices such that invoices for drugs listed in Schedule II shall be maintained separately, but invoices for drugs listed in Schedules III, IV, and V may be maintained with general records provided they are readily retrievable;

3. prescription files; and

4. inventory records of all controlled dangerous substances, including the initial, annual, and current inventory.

B. Inventory Records. Such records shall be complete and reflect an accurate accounting of all transactions involving controlled dangerous substances.

1. Content. The record shall reflect the following information:

a. drug name, strength, and correct accounting supported with invoices, prescriptions, and/or transfers;

b. permittee name and address;

c. permittee's DEA registration number;

d. date of inventory, including whether taken at opening or close of business;

e. time period;

f. available prior inventory;

g. signature of pharmacist-in-charge; and

h. inventory records shall be maintained for two years.

2. Initial Inventory Record. An initial inventory of all controlled dangerous substances shall be conducted when the permittee commences to dispense prescriptions for controlled dangerous substances.

3. Annual Inventory Record

a. A complete and accurate physical inventory shall be conducted of all drugs listed in Schedule II.

b. An estimated physical inventory shall be conducted of all drugs listed in Schedules III, IV, and V,

unless the container holds more than 1,000 tablets or capsules, in which case an exact inventory shall be made.

c. The annual inventory may be taken on any date that is within one year of the previous inventory date.

4. Business Termination Inventory. An inventory of all controlled dangerous substances shall be taken when a permittee's pharmacy is sold, exchanged, assigned, closed, or transferred, with a copy of said inventory mailed to the board and the DEA.

5. Pharmacist-in-Charge Termination Inventory. An inventory of all controlled dangerous substances shall be conducted by the departing pharmacist-in-charge and verified by the succeeding pharmacist-in-charge.

6. Central Records. A central records depository shall be permitted, if approved by both the DEA and the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2110 (October 2003).

§2549. CDS Theft or Loss

A. The unexplained substantial loss, disappearance, or theft of controlled dangerous substances from a pharmacy shall be documented by the permittee.

1. Inventory. The permittee shall conduct a physical inventory of all controlled dangerous substances.

2. Report. The permittee shall substantiate the loss or theft of controlled dangerous substances by completing the DEA Form 106C Report of Theft or Loss of Controlled Substances, or its successor.

3. Notice. The permittee shall file the above-referenced report to the DEA and to the board within 10 days of discovery of the theft or loss.

4. Drug Diversion. The permittee shall report diversion of controlled dangerous substances to the board within ten days of discovery of the diversion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2111 (October 2003).

§2551. CDS Returns

A. A permittee is authorized to return drugs listed in Schedule II to a legally authorized supplier or reverse distributor, provided that an executed DEA 222 form, or its successor, shall be completed by said supplier or reverse distributor and maintained by the permittee.

B. A permittee is authorized to return drugs listed in Schedules III, IV, or V to a legally authorized supplier or reverse distributor, provided that a written record is maintained, including the following information:

1. the date of the transaction;
2. the drug name, dosage form, strength, and quantity;
3. the name, address, and DEA registration number of the supplier or reverse distributor; and
4. the name, address, and DEA registration number of the permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2111 (October 2003).

§2553. CDS Destruction

A. Destruction. Deteriorated, outdated, recalled, or nontransferable drugs shall be inventoried on DEA Form 41C Registrants Inventory of Drugs Surrendered, or its successor. The registrant shall forward three copies of the completed form to the regional DEA office and await DEA's instructions on proper procedures. A copy of the inventory sent to the regional DEA office shall be sent to the board.

B. Record Retention. The registrant shall maintain all applicable records for a minimum of two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2111 (October 2003).

§2555. Pharmacy Termination or Transfer

A. A permittee discontinuing dispensing of controlled dangerous substances shall notify the board and then remove the drugs, through return or transfer, to legally authorized recipients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2111 (October 2003).

§2557. CDS Transfers

A. Transfer to Practitioner's Office. A permittee may distribute controlled dangerous substances to a DEA-registered practitioner for the purpose of administering said drug for office use, provided that the following conditions are met.

1. The transfer of drugs listed in Schedule II to a DEA-registered practitioner for office use shall require the completion of a DEA Form 222, or its successor.

2. The transfer of drugs listed in Schedules III, IV, or V to a DEA-registered practitioner for office use shall require a written order, or an oral order reduced to written form, and the order shall be maintained with the receiving invoices for said drugs.

B. Transfer Between Pharmacies

1. The transfer of drugs listed in Schedule II to another pharmacy shall require the completion of a DEA Form 222, or its successor.

2. The transfer of drugs listed in Schedules III, IV, or V to another pharmacy shall require a written record, containing at a minimum, the drug name, strength, and dosage form; quantity of drug transferred; and the name, address, and DEA registration number of the recipient pharmacy.

C. Limitations. The total number of dosage units of all controlled dangerous substance distributed by a permittee during a calendar year shall not exceed five percent of the total number of dosage units of controlled dangerous substances procured by the permittee during the same calendar year. Should the permittee desire to exceed the 5 percent limitation, the permittee shall apply for a distributor's permit from the Louisiana Board of Wholesale Drug Distributors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:21111 (October 2003).

Chapter 27. Illegal Payments; Required Disclosures of Financial Interests

Subchapter A. General Information

§2701. Scope and Purpose of Chapter

A. Scope of Chapter. The rules of this Chapter interpret, implement, and provide for the enforcement of R.S. 37:1744 and R.S. 37:1745, or their successors, requiring disclosure of a pharmacist's financial interest in another health care provider to whom or to which the pharmacist refers a patient and prohibiting certain payments in return for referring or soliciting patients.

B. Declaration of Purpose; Interpretation and Application. Pharmacists owe a fiduciary duty to patients to exercise their professional judgment in the best interests of their patients in providing, furnishing, recommending, or referring patients for health care items or services. The purpose of these Rules and the laws they implement is to prevent payments by or to a pharmacist as a financial incentive for the referral of patients to a pharmacist or other health care provider for healthcare services or items. These Rules shall be interpreted, construed, and applied so as to give effect to such purposes and intent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:21112 (October 2003).

§2703. Definitions

A. As used in this Chapter, the following terms have the meaning ascribed to them by this Section.

Board Cthe Louisiana Board of Pharmacy.

Financial Interest Ca significant ownership or investment interest established through debt, equity, or other means and held, directly or indirectly, by a pharmacist or a member of a pharmacist's immediate family, or any form of direct or indirect remuneration for referral.

Group Practice Ca group of two or more pharmacists and/or other health care providers legally organized as a general partnership, registered limited liability partnership, professional medical corporation, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar organization or association:

a. in which each pharmacist who is a member of the group provides substantially the full range of services which the pharmacist routinely provides;

b. for which substantially all of the services of the pharmacists who are members of the group are provided through the group and are billed under a billing number assigned to the group and amounts so received are treated as receipts of the group;

c. in which no pharmacist who is a member of the group directly or indirectly receives compensation based on the volume or value of referrals by the pharmacist, except payment of a share of the overall profits of the group, which may include a productivity bonus based on services personally performed or services incident to such personally performed services, so long as the share of profits or bonus is not determined in any manner which is directly related to the volume or value of referrals by such pharmacist; and

d. in the case of a faculty practice plan associated with a hospital, institution of higher education, or pharmacy school with an approved training program in which pharmacist members may provide a variety of different specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, solely with respect to services provided within such faculty practice plan.

Health Care Item Cany substance, product, device, equipment, supplies, or other tangible good or article which is or may be used or useful in the provision of health care.

Health Care Provider Cany person, partnership, corporation, or association licensed by a department, board, commission, or other agency of the state of Louisiana to provide, or which does in fact provide preventive, diagnostic, or therapeutic health care services or items.

Immediate Family Cas respects a pharmacist, the pharmacist's spouse, children, parents, siblings, stepchildren, stepparents, in-laws, grandchildren and grandparents.

Investment Interest Ca security issued by an entity, including, without limitation, shares in a corporation, interests in or units of a partnership or limited liability company, bonds, debentures, notes, or other debt instruments.

Payment Ctransfer or provision of money, goods, services, or anything of economic value.

Person Cas defined in R.S. 37:1164(33). or its successor.

Pharmacist Cany individual currently licensed by the board to engage in the practice of pharmacy in the state of Louisiana.

Pharmacy Cany place where drugs are dispensed and pharmacy primary care is provided.

Referral Cany direction, recommendation, or suggestion given by a health care provider to a patient, directly or indirectly, which is likely to determine, control, or influence the patient's choice of another health care provider for the provision of health care services or items.

Remuneration for Referral Cany arrangement or scheme, involving any remuneration, directly or indirectly, in cash or in kind, between a pharmacist, or an immediate family member of such pharmacist, and another health care provider that is intended to induce referrals by the pharmacist to the health care provider or by the health care provider to the pharmacist, other than any amount paid by an employer to an employee who has a bona fide employment relationship with the employer, for employment in the furnishing of any health care item or service.

Significant Financial Interest Can ownership or investment interest shall be considered "significant," within the meaning of §2713, if such interest satisfies any of the following tests:

a. such interest, in dollar amount or value, represents five percent or more of the ownership or investment interests of the health care provider in which such interest is held; or

b. such interest represents 5 percent or more of the voting securities of the health care provider in which such interest is held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2112 (October 2003).

Subchapter B. Illegal Payments

§2705. Prohibition of Payments for Referrals

A. A pharmacist or pharmacy shall not knowingly and willfully make, or offer to make, any payment, directly or indirectly, overtly or covertly, in cash or in kind, to induce another person to refer an individual to the pharmacist for the furnishing, or arranging for the furnishing, of any health care item or service.

B. A pharmacist or pharmacy shall not knowingly and willfully solicit, receive, or accept any payment, directly or indirectly, overtly or covertly, in cash or in kind, in return for referring a patient to a health care provider for the furnishing, or arranging for the furnishing, of any health care item or service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2113 (October 2003).

§2707. Prohibited Arrangements

A. Any arrangement or scheme, including cross-referral arrangements, which a pharmacist or pharmacy knows or should know has a principal purpose of ensuring or inducing referrals by the pharmacist to another health care provider, which, if made directly by the pharmacist or pharmacy would be a violation of §2713, shall constitute a violation of §2713.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2113 (October 2003).

§2709. Exceptions

A. Proportionate Return on Investment. Payments or distributions by an entity representing a direct return on investment based upon a percentage of ownership, shall not be deemed a payment prohibited by R.S. 37:1745(B), or its successor, or §2705 of these regulations.

B. General Exceptions. Any payment, remuneration, practice, or arrangement which is not prohibited by or unlawful under §1128(b) of the Federal Social Security Act (Act), 42 U.S.C. §1320a-7b(b), or its successor, with respect to health care items or services for which payment may be made under Title XVIII or Title XIX of the Act, including those payments and practices sanctioned by the secretary of the United States Department of Health and Human Services, through the Office of the Inspector General, pursuant to §1128B(b)(3)(E) of the Act, through regulations promulgated at 42 CFR §1001.952, or its successor, shall not be deemed a payment prohibited by R.S. 37:1745(B), or its successor, or by §2705 of these rules with respect to health care items or services for which payment may be made by any patient or private or governmental payor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2113 (October 2003).

§2711. Effect of Violation

A. Any violation of, or failure of compliance with, the prohibitions and provision of §2705 of this Chapter shall be deemed a violation of the Pharmacy Practice Act, R.S. 37:1161 et seq, providing cause for the board to sanction a person culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2113 (October 2003).

Subchapter C. Disclosure of Financial Interests in Third-Party Health Care Providers

§2713. Required Disclosure of Financial Interest

A. Mandatory Disclosure. A pharmacist or pharmacy shall not make any referral of a patient outside the pharmacist's or pharmacy's group practice for the provision of health care items or services by another health care provider in which the referring pharmacist has a financial interest, unless, in advance of any such referral, the referring pharmacist or pharmacy discloses to the patient, in accordance with §2713 of this Chapter, the existence and nature of such financial interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 17:780 (August 1991), LR 29:2113 (October 2003).

§2715. Form of Disclosure

A. Required Contents. The disclosure required by §2713 of this Chapter shall be made in writing, shall be furnished to the patient, or the patient's authorized representative, prior to or at the time of making the referral, and shall include:

1. the pharmacist's or pharmacy's name, address, and telephone number;
2. the name and address of the health care provider to whom the patient is being referred by the pharmacist or pharmacy;
3. the nature of the items or services which the patient is to receive from the health care provider to which the patient is being referred; and
4. the existence and nature of the pharmacist's or pharmacy's financial interest in the health care provider to which the patient is being referred.

B. Permissible Contents. The form of disclosure required by §2713 of this Chapter may include a signed acknowledgment by the patient or the patient's authorized representative that the required disclosure has been given.

C. Approved Form. Notice to a patient given substantially in the form of Disclosure of Financial Interest prescribed in the Appendix to this rule shall be presumptively deemed to satisfy the disclosure requirements of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2113 (October 2003).

§2717. Effect of Violation; Sanctions

A. Effect of Violation. Any violation of, or failure of compliance with, the prohibitions and provision of §2713 of this Chapter shall be deemed a violation of the Pharmacy Practice Act, R.S. 37:1161 et seq., providing cause for the board to sanction a pharmacist or pharmacy culpable of such violation.

B. Administrative Sanctions. In addition to the sanctions provided for by R.S. 37:1241, upon proof of violation of §2713 by a pharmacist or pharmacy, the board may order that all or any portion of any amounts paid by a patient, and/or by any third-party payor on behalf of a patient, for health care items or services furnished upon a referral by the pharmacist or pharmacy in violation of §2713, be refunded by the pharmacist or pharmacy to such patient and/or third-party payor, together with legal interest on such payments at the rate prescribed by law calculated from the date on which any such payment was made by the patient and/or third-party payors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2114 (October 2003).

§2719. Disclosure of Financial Interest

[Name of Pharmacist/Group]
[Address]
[Telephone Number]

DISCLOSURE OF FINANCIAL INTEREST
As Required by R.S. 37:1744 and LAC 46:LIII.613-615

TO: _____ DATE: _____

(Name of Patient to Be Referred)

(Patient Address)

Louisiana law requires pharmacists and other health care providers to make certain disclosures to a patient when they refer a patient to another health care provider or facility in which the pharmacist has a significant financial interest. [I am/we are] referring you, or the named patient for whom you are legal representative, to:

(Name and Address of Provider to Whom Patient is Referred)

to obtain the following health care services, products, or items:

(Purpose of the Referral)

[I/we] have a financial interest in the health care provider to whom we are referring you, the nature and extent of which are as follows:

PATIENT ACKNOWLEDGEMENT

I, the above-named patient, or legal representative of such patient, hereby acknowledge receipt, on the date indicated and prior to the described referral, of a copy of the foregoing Disclosure of Financial Interest.

Signature of Patient or Patient's Representative)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2114 (October 2003).

Chapter 29. Severability

§2901. Severability

A. In the event any Rule, sentence, clause, or phrase or any of these Rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining Rules or portions thereof, and such remaining rules or portions thereof shall remain of full force and effect, as if such Rule or portions thereof so determined, declared, or adjudged invalid or unconstitutional were not originally a part hereof. It is the intent of the Louisiana Board of Pharmacy to establish Rules and regulations that are constitutional and enforceable so as to safeguard the health, safety, and welfare of the people of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2114 (October 2003).

Malcolm J. Broussard
Executive Director
0310#012

RULE

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

Medicaid Eligibility
Family Practice Examination

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has promulgated the following Rule in the Medical Assistance Program as authorized by R.S. 34:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement fee for the family practice examination to \$100. The family practice examination consists of a medical examination and a written report describing the Medicaid applicant's medical condition. Reimbursement is only available to Medicaid enrolled physicians, clinics and hospitals.

David W. Hood
Secretary
0310#078

RULE

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

Pharmacy Benefits Management Program
Prescription Limit

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has promulgated the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of 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 adopted the following regulations governing the provision of prescription drug benefits offered to Medicaid recipients under the Medicaid Pharmacy Benefits Management Program.

1. The Department of Health and Hospitals will pay for a maximum of eight prescriptions per calendar month for Medicaid recipients.
2. The following federally mandated recipient groups are exempt from the eight prescriptions per calendar month limitation:
 - a. persons under 21 years of age;
 - b. persons who are residents of long-term care institutions, such as nursing homes and ICF-MR facilities; and
 - c. pregnant women.
3. The eight prescriptions per month limit can be exceeded when the prescriber determines an additional prescription is medically necessary and communicates the following information to the pharmacist in his own handwriting or by telephone or other telecommunications device:
 - a. "medically necessary override;" and
 - b. a valid ICD-9-CM Diagnosis Code that directly relates to each drug prescribed that is over the eight prescription limit (no ICD-9-CM literal description is acceptable).
4. The prescriber should use the Clinical Drug Inquiry (CDI) internet web application developed by the fiscal intermediary in his/her clinical assessment of the patient's disease state or medical condition and the current drug regime before making a determination that more than eight prescriptions per calendar month is required by the recipient.
5. Printed statements without the prescribing practitioner's signature, check-off boxes or stamped signatures are not acceptable documentation.
6. An acceptable statement and ICD-9-CM are required for each prescription in excess of eight for that month.
7. Pharmacists and prescribers are required to maintain documentation to support the override of a prescription limitation.

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

0310#076

RULE

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

Private Hospital/Outpatient Services
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has promulgated the following Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the December 20, 1997 Rule governing the reimbursement methodology for outpatient hospital services by adjusting the interim rate to a hospital specific cost to charge ratio calculation based on the latest filed cost report. These cost to charge ratio calculations will be reviewed on an ongoing basis as cost reports are filed and will be adjusted as necessary. The final reimbursement for these services will continue to be cost settlement at 83 percent of allowable costs.

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

David W. Hood
Secretary

0310#077

RULE

**Department of Revenue
Policy Services Division**

Collection of Tax on Vehicles (LAC 61:I.4307)

Under the authority of R.S. 47:303 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.4307 relative to the collection of sales and use tax on the sale of vehicles.

This amendment repeals LAC 61:I.4307.B.4.h.ii.(a) through (d)(ii), which pertain to the Local Sales Tax Recovery Surcharge. This surcharge, provided for under R.S.

47:303(B)(6), allows automobile lessors or renters subject to the Automobile Rental Tax levied by R.S. 47:551 to transfer the cost of local sales and use tax paid on automobiles purchased for lease or rental to their customers by allocating the local taxes to each automobile rental contract. Previously, the Rule accomplished this by allowing dealers to charge \$2 per rental day per contract as reimbursement for the local sales and use tax paid on their rental fleet. Since 1996, automobiles have been excluded from local sales and use tax when purchased for subsequent lease or rental and therefore the Local Sales Tax Recovery Surcharge is obsolete.

The repealed Subclauses have been replaced with LAC 61:I.4307.B.5. This amendment also renumbered the remainder of Subsection B as LAC 61:I.4307.B.6 through 9.b.

Title 61

REVENUE AND TAXATION

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

Chapter 43. Sales and Use Tax

§4307. Collection

A. - B.4.h.ii. ...

5. R.S. 47:303(B)(6) allows automobile lessors or renters that are subject to the Automobile Rental Tax imposed by R.S. 47:551 to transfer to their customers any local sales or use tax paid on automobiles purchased for their rental fleet. However, since July 1, 1996, R.S. 47:301(10)(a)(iii) has excluded automobiles purchased for subsequent lease or rental from local sales or use tax. Therefore, the transfer of local sales and use tax allowed by R.S. 47:303(B)(6) is obsolete and automobile lease or rental dealers are no longer allowed to collect this surcharge.

6. The sales tax exemption for isolated or occasional sales of tangible personal property provided by R.S. 47:301(10)(c)(ii) does not apply to sales of motor vehicles. R.S. 47:303(4) provides that isolated or occasional sales of vehicles are specifically defined to be sales at retail and subject to the sales tax.

7. The vehicle commissioner may require any dealer engaged in the business of selling motor vehicles, automobiles, motorcycles, trucks, truck-tractors, trailers, semi-trailers, motor buses, house trailers, or any other vehicle subject to the vehicle registration license tax law or the title registration law to furnish information relative to their sales on any periodic basis designated by the vehicle commissioner. The statements shall include the serial number, motor number, type, year, model of the vehicle sold, the total sales price, any allowance for trade-in, a description of the trade-in, the total cash difference to be paid by the

purchaser, and any sales or use taxes to be paid. The vehicle commissioner is also authorized to secure whatever other additional information is necessary for proper administration of this Subsection.

8. R.S. 47:303(A)(3) allows a credit against the use tax for taxes paid to another state provided the other state allows a similar credit for taxes paid to Louisiana.

9.a. Generally, a certificate of title or vehicle registration will not be issued to any purchaser for any vehicle on which the sales taxes have not been paid. However, R.S. 47:303(B)(5) provides an exception for purchasers who paid the proper taxes due to the vehicle dealer at the time the vehicle was purchased, but the dealer did not remit the taxes to the vehicle commissioner. Under this provision, a motor vehicle purchaser who has not been issued a certificate of title or vehicle registration license within six months after the date of the sale, may submit a written request to the secretary showing that:

i. all state and local sales taxes and fees due by the purchaser were paid in good faith to the motor vehicle dealer at the time of purchase;

ii. the motor vehicle dealer has not yet remitted the taxes and fees to the vehicle commissioner;

iii. the motor vehicle dealer has refused or is unable to respond to a written demand by the purchaser for payment of the taxes and fees to the vehicle commissioner; and

iv. the certificate of title or vehicle registration license has not been issued within the six months after the date of the sale.

b. If the purchaser's request appears reasonable and the facts represented are found to be accurate, the secretary may authorize the vehicle commissioner to issue a certificate of title or a vehicle registration license. If the secretary denies the purchaser's request, the denial will be in writing and the purchaser may file an appeal with the Board of Tax Appeals within 60 days after the date of denial by the secretary.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:303 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 20:316 (March 1994), amended by the Department of Revenue, Policy Services Division, LR 29:2116 (October 2003).

Raymond E. Tangney
Senior Policy Consultant

0310#013

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Agricultural Commodities Commission

Agricultural Commodities (LAC 7.XXVII.128)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Louisiana Agricultural Commodities, hereby proposes to amend regulations regarding an increase in fees for re-grading grain sampling as well as fees to inspect and register moisture meters.

Louisiana is experiencing an unprecedented shortfall in state finances. The legislature has cut the department's budget; therefore, using other department funds is not a continuing option. The fiscal year begins on the first of July. Adoption of these Rules will take place in accordance with the Administrative Procedure Act.

Title 7

Agriculture and Animals

Part XXVII. Agricultural Commodity Dealer and Warehouse Law

Chapter 1. Agricultural Commodities Commission Subchapter E. Assessments and Fees

§128. Fees: Amount, Time of Payment

A. - C.3. ...

4. Official Services (including sampling except as indicated)

Online D/T sampling inspection service (sampling, grading and certification), per regular hour	\$25.00
Overtime hourly rate, per hour	\$40.00
Unit Inspection Fees:	
Hopper Car, per car	\$20.00
Boxcar, per car	\$15.00
Truck/Trailer, per carrier	\$10.00
Barge, per 1,000 bushels	\$ 2.50
Submitted sample inspection	\$12.00
Re-grade grain sample	\$15.00

D. Moisture Meter Registration and Inspection Fee

1. A registration fee of \$20 per meter and an inspection fee of \$40 per meter to be paid by the owner or user of every moisture measuring device used or held for use at any commercial facility which receives, holds, dries, stores, mills, processes or otherwise deals in agricultural commodities in the state, when such use or intended use is for the purpose of determining discounts or other price variances in connection with the purchase or sale of such commodity, said device shall be registered with the Louisiana Department of Agriculture and Forestry.

2. Registration shall be required on or before May 15 of each year or within two business days of acquisition of a new or additional unregistered moisture measuring device for the purpose set forth in Paragraph 1 of this Section. Registration forms will be provided by the department and shall state the name and address of the commercial facility which owns or uses the device, the number of devices used

and held for use, the brand name(s) of the device(s), and such other information as may be deemed necessary to carry out the provisions of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR12:287 (May 1986), amended LR 14:528 (August 1988), LR 19:889 (July 1993), LR 23:196 (February 1997), LR 27:815 (June 2001), LR 30:

Family Impact Statement

The proposed amendments to Rules and regulations governing fee costs associated with registration and inspection of moisture meters and grain should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may submit written comments on the proposed Rules through, November 26, 2003 to William Boudreaux, Department of Agriculture and Forestry, P.O. Box 3098, Baton Rouge, LA 70821-3098.

Bob Odum
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Agricultural Commodities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated. The Louisiana Agricultural Commodities Commission is proposing to amend regulations regarding an increase in fees for re-grading grain sampling as well as fees to inspect and register moisture meters. The fees are based on the cost associated with inspecting and re-grading samples used by the grain industry and to increase fees for registration and inspection of all moisture meters at licensed grain elevators. In the past, the Commission's expenditures related to these services have exceeded collections; therefore, the fee increases are necessary to increase dedicated funds to offset a decrease in state general funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be a total increase in revenue collections of \$4,600 to the Commodities Commission fund. The increase is based on prior year collections from the total number of moisture meters inspected and grain re-grading samples.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The increase in costs to individuals desiring moisture meter inspection will be \$20. The registration fee increases will be \$40 and the fee increase for re-grading of grain samples will be \$15. The total increase will be \$4,600.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have a net effect on competition and employment.

Skip Rohrer Robert E. Hosse
Assistant Commissioner General Government Section Director
0310#069 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Fertilizer Commission**

Fertilizer Commission Fees (LAC 7.XI.115)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Fertilizer Commission, hereby proposes to amend regulations governing fee costs associated with registration, inspection, testing, regulating, and administering the Fertilizer Law.

Louisiana is experiencing an unprecedented shortfall in state finances. The legislature has cut the department's budget; therefore, using other department funds is not a continuing option. The fiscal year begins on the first of July. Adoption of these Rules will take place in accordance with the Administrative Procedure Act.

**Title 7
AGRICULTURE AND ANIMALS
Part XI. Fertilizers**

Chapter 1. Sale of Fertilizers

§115. Tonnage Reports; Inspection Fees

A. All registrants must file a report of the tonnage and grade of product sold, on forms to be provided by the Fertilizer Commission of the Louisiana Department of Agriculture and Forestry, on the first day of July, the first day of October, the first day of January, and the first day of April of each year.

B. All registrants must grant the Fertilizer Commission of the Department of Agriculture and Forestry the right to examine their records for verification of the tonnage reports filed as required by §115.A.

C. Every guarantor blending or selling fertilizer in small package lots totaling less than 100 tons per year shall pay to the Fertilizer Commission of the Department of Agriculture and Forestry an annual inspection fee of \$100.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1312.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:495 (August 1986), LR 30:

Family Impact Statement

The proposed amendments to Rules LAC 7:XI.115 governing fees associated with registration, inspection, testing, regulating, and administering the Fertilizer Law should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may submit written comments on the proposed Rules through November 26, 2003 to Dr. Robert Biene, Department of Agriculture and Forestry, P.O. Box 25060, Baton Rouge, LA 70894-5060.

Bob Odum
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fertilizer Commission Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated. The Louisiana Fertilizer Commission is proposing to delete references to tonnage fees, since these are prescribed in the law. The law prescribes a fee increase from \$0.70 to \$1 per ton. In the past, the programs expenditures related to these services have exceeded collections; therefore, the fee increase is necessary to increase dedicated funds to offset a decrease in state general funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be a total increase in revenue collections of \$207,200 to the Fertilizer Commission Fund. This increase in collections was calculated using past year tonnage reports.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be an increase in costs to companies selling fertilizer in the state of Louisiana. The fee for each ton of fertilizer sold in the state of Louisiana will increase from \$0.75 to \$1 per ton. There will be no additional paperwork as a result of these amendments. This Rule change should have no significant impact on receipts and/or income.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have a net effect on competition and employment.

Skip Rohrer Robert E. Hosse
Assistant Commissioner General Government Section Director
0310#068 Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Environmental Sciences Office of Agriculture and Environmental Sciences

Feed Commission Inspection Fees (LAC 7:XVII.121)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Feed Commission, hereby proposes to amend regulations pertaining to references to the inspection fee since this fee is prescribed in the law. The amounts of the proposed fees for company and label registration are indicated in the attached copies of the rules. These fees are based on the costs associated with registration, inspection, testing, regulating, and administering the Commercial Feed Law.

Louisiana is experiencing an unprecedented shortfall in state finances. The legislature has cut the department's budget; therefore, using other department funds is not a continuing option. The fiscal year begins on the first of July. Adoption of these Rules will take place in accordance with the Administrative Procedure Act.

These Rules are enabled by R.S. 3:1901 and R.S. 3:1892.

Title 7

AGRICULTURE AND ANIMALS

Part XVII. Feed Commission

Chapter 1. Commercial Feeds

Subchapter A. Official Feed Rules and Regulations

§121. Fees

A. Each application for registration with the commission shall be accompanied by a registration fee of \$40.

B. Each registrant filing a label with the commission shall pay to the commission a labeling fee of \$10 per label for one to 50 products, \$8 per label for 51 to 200 products, \$6 per label for 201 or more products.

C. Registration shall expire on the last day of June of each year. An additional \$50 late fee will be charged for renewal registrations filed after the last day of June. A late fee will not be charged on initial registrations or registrations of new products filed after the last day of June.

D. If a registrant had no sales in a given quarter, he must still file a tonnage report and pay a minimum tonnage fee of \$10 for that quarter. A registrant shall keep all records necessary to accurately indicate the tonnage and kind of commercial feed sold and shall permit the commissioner or his authorized representative to examine these records and to verify the statement of tonnage. Tonnage reports shall be made on forms supplied by the commissioner and suitable for providing the necessary tonnage and statistical information. The tonnage reports and inspection fees shall be due and payable on the first day of October, the first day of January, the first day of April and the first day of July. If the report is not filed and payment made within 30 days after the date due, a penalty of 25 percent of the amount due shall be assessed against the registrant. If payment is not made within 30 days after the due date, the amount of fees due, plus the penalty, shall constitute a debt and become the basis of a judgment against the registrant. All information as to the amount of feed sold and business practices of the registrant obtained from tonnage reports or from inspection of records and books shall remain confidential and shall not be revealed

by the commissioner or his employees to the public or to any other person.

E. The inspection fee shall be collected only once on each lot of ingredients. To achieve this end, the following provisions shall apply.

1. No fee shall be paid on a commercial feed if a previous manufacturer has paid the fee.

2. No fee shall be paid on customer-formula feeds of the inspection fee has been paid on the commercial feeds, which are used as ingredients therein.

3. No fee shall be paid on commercial feeds, which are used as ingredients for the manufacture of registered commercial feeds. If the fee has already been paid, credit shall be given for that payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1901 and 3:1892.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:223 (March 1985), amended LR 11:944 (October 1985), LR 30:

Family Impact Statement

The proposed amendments to Rules LAC XI. Chapter 1 pertaining to references to the inspection fee since this fee is prescribed in the law. The amounts of the proposed fees for company and label registration are indicated in the attached copies of the rules. These fees are based on the costs associated with registration, inspection, testing, regulating, and administering the Commercial Feed Law should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may submit written comments on the proposed Rules through November 26, 2003 to Dr. Robert Biene, Department of Agriculture and Forestry, P.O. Box 25060, Baton Rouge, LA 70894-5060. No preamble concerning the proposed rules is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Feed Commission Inspection Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated. The Louisiana Feed Commission is proposing to delete references to inspection fees, since these are prescribed in the law. The law prescribes an inspection fee increase from \$0.75 to \$1 per ton and in the case of a commercial feed, which is distributed in this state only in packages of 10 pounds or less, the annual fee will change from \$100 to \$200 in lieu of the inspection fee. These fees are based on the cost associated with processing these

registrations. In the past, the programs expenditures related to these services have exceeded collections; therefore, the fee increase is necessary to increase dedicated funds to offset a decrease in state general funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be a total increase in revenue collections of \$296,000 to the Feed Commission Fund. This increase in collections was calculated using past year tonnage reported and the number of companies and labels registered with the Feed Commission.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be an increase in costs to companies selling feed in the state of Louisiana. The inspection fee for each ton of commercial feed sold in the state of Louisiana will increase from \$0.75 to \$1 per ton. In lieu of an inspection fee, companies previously paying a \$100 specialty fee for selling small packages will now pay a \$200 specialty fee. Commercial feed registration will increase from \$25 to \$40 per company and label fees from \$5 to \$10 per label for 1-50 products, \$4 to \$8 per label for 51-200 labels, and \$3 to \$6 per label for 201 or more labels. There will be no additional paperwork as a result of these amendments. This rule change should have no significant impact on receipts and/or income.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment.

Skip Rhorer
Assistant Commissioner
0310#067

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Structural Pest Control Commission**

Structural Pest Control (LAC 7:XXV.117 and 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, proposes to amend regulations regarding an increase in fees for each termite contract and wood-destroying insect reports.

The Department of Agriculture and Forestry deems the implementation of these Rules and regulations necessary to fund the operations of the Structural Pest Control Commission. The Commission has recorded deficit spending for the last five years. The yearly shortfalls in revenues were made up from other funds within the Louisiana Department of Agriculture and Forestry. These Rules also allow the department to regulate the structural pest control industry consistently and insure that the state's citizens are getting the services for which they are paying.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§117. Obligations of the Licensee

A. - L. ...

M. The fee per termite contract and wood-destroying insect report is \$6 per contract and/or inspection report issued and \$8 for each combination liquid spot and bait and baiting system contract and is due on or before the tenth day of each month.

N. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 21:930 (September 1995), LR 23:855 (July 1997), LR 26:2437 (November 2000), LR 30:

§119. Contracts for Termite Control Work

A. - E. ...

F. The licensee shall pay a \$6 fee for each standard contract and shall pay an \$8 fee for each combination contract for liquid spot and bait and baiting system treatments reported under §119.E above when the required monthly report is filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

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 26:2437 (November 2000), LR 27:1179 (August 2001), LR 27:2084 (December 2001), LR 28:1171 (June 2002), LR 30:

Family Impact Statement

The proposed amendments to Rules 7:XXV.117 and 119, regarding minimum specifications for use of termite bait and baiting systems should not have any known or foreseeable impact on any family as Defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

A public hearing will be held on these Rules on November 25, 2003 at 10 a.m. at the address listed below. Interested persons should submit written comments on the proposed Rules through December 1, 2003 to Bobby Simoneaux, 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Structural Pest Control**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated. The Structural Pest Control

Commission is proposing to increase fees to fund the operations of the Structural Pest Control Commission. The amount proposed is an increase to \$1 for each termite contract and wood-destroying insect report. In the past, the programs expenditures related to these services have exceeded collections; therefore, the fee increase is necessary to increase dedicated funds to offset a decrease in state general funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be a total increase in revenue collections of \$70,000 to the Structural Pest Control Commission Fund. The increase in collections was calculated using a \$1 increase for an estimated 35,000 termite contracts and 35,000 wood-destroying insect reports for an increase of \$70,000.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be an increase in costs to individuals for termite contracts and wood-destroying insect reports. The costs to affected persons is a \$1 increase for an estimated 35,000 termite contracts and 35,000 wood-destroying insect reports for an increase of \$70,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have a net effect on competition and employment

Skip Rohrer Robert E. Hosse
 Assistant Commissioner General Government Section Director
 0310#073 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
 Office of Forestry**

**Indian Creek Recreation Area User Fees
 (LAC 7:XXXIX.501)**

In accordance with R.S.49:950 et seq., the Administrative Procedures Act, notice is hereby given that the Department of Agriculture and Forestry, Office of Forestry, intends to amend LAC 7:XXXIX.501, Indian Creek Recreation Area, Usage Fees. The proposed Rule provides for an increase in some of the fees charged to users of the Indian Creek Recreation Area, which is located on the Alexander State Forest near Woodworth, Louisiana. These fee increases are necessary to cover the increased cost of operation of the park.

This Rule complies with and is enabled by Act 591 of 1970.

**Title 7
 AGRICULTURE AND ANIMALS
 Part XXXIX. Forestry**

**Chapter 5. Indian Creek Recreation Area
 §501. Usage Fees**

A. The Department of Agriculture and Forestry, Office of Forestry, hereby announces the following usage fee revisions.

4. Primitive Campsite	\$ 8/day
5. Pavillion Rental	\$ 50/day
6. Boat Launch	\$ 3/boat
7. 30-day Off-Season Rate for Regular Campsite (Oct.-Feb. only)	\$210/month
8. 30-day Off-Season Rate for Pull-through Campsite (Oct.-Feb. only)	\$270/month

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 6:734 (December 1980), amended LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 17:476 (May 1991), LR 23:553 (May 1997), LR 30:

Family Impact Statement

The proposed amendment to Rule Title 7, Part XXXIX. Chapter 3 regarding fee increases necessary to cover the increased cost of operation of the park should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Charles Mathern through the close of business on November 26, 2003 at P.O. Box 1628, Baton Rouge, LA, 70821 (5825 Florida Blvd, Baton Rouge). A public hearing will be held on these Rules on November 26, 2003 at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these Rules is necessary.

Bob Odom
 Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
 FOR ADMINISTRATIVE RULES
 RULE TITLE: Indian Creek Recreation Area User Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this Rule will result in an increase in self-generated state revenue of approximately \$42,374 per year, which is needed to provide for the operation and maintenance of the recreation area on which the user fees are collected. There will be no mandatory fiscal impact on local government units from the implementation of the proposed Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This Rule will result in an increase of approximately \$42,374 in self-generated revenue for the Office of Forestry, based on activity at Indian Creek Recreation Area in FY 01-02.

1. Entrance Fee (Day Use)	\$3 per Vehicle with up to Six Occupants. Additional \$0.50 per Person for Additional Occupants.
2. Regular Campsite	\$ 14/day
3. Pull-Through Campsite	\$ 18/day

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Users of Indian Creek Recreational Area will be affected by the proposed action. Those individuals who rent the facilities included in the fee increase proposal would pay the additional amounts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The additional funds collected will be spent on local labor and at local business who supply items used by this recreation area. Improved recreation facilities will benefit tourism and should have a positive effect on employment and income in the area.

Skip Rhorer
Assistant Commissioner
0310#060

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Forestry**

Tree Seedling Prices
(LAC 7:XXXIX.301)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Forestry, proposes to amend rules and regulations regarding tree seedling prices.

The Office of Forestry nursery operations are an ancillary budget operation and all production and operating costs must be covered entirely by revenue generated from seedling sales. Seedling prices are set to reflect, as closely as possible, a break-even pricing structure. The proposed changes to the seedling prices are designed to bring sales revenue in line with production costs and to establish an efficient and organized pricing structure that is consistent with tree seedling marketing in the state and the region.

These rules comply with and are enabled by R.S. 3:4303.

**Title 7
AGRICULTURE AND ANIMALS
Part XXXIX. Forestry**

Chapter 3. Tree Seedlings

§301. Seedling Prices

A. The Louisiana Forestry Commission adopts the following prices for forest tree seedlings.

Improved Pine Seedlings	\$ 35 per 1000 seedlings
Advanced Generation Seedlings	\$ 42 per 1000 seedlings
Special Pine Seedlings	\$ 75 per 1000 seedlings
Hardwood Seedlings	\$200 per 1000 seedlings
Baldcypress Seedlings	\$200 per 1000 seedlings

B.1. Volume discounts for bulk loblolly/slash pine seedling orders and contracts shall be as follows.

Order/Sales Volume (Number of Seedlings)	Proposed Discounted Sales (M = 1,000 Seedlings)
-1,000,000	\$35.00/M
1,000,001-2,000,000	\$34.00/M
2,000,001-3,000,000	\$33.00/M
3,000,001-4,000,000	\$32.00/M
4,000,001-5,000,000	\$31.00/M

5,000,001-6,000,000	\$30.00/M
6,000,001+	\$29.00/M

The Office of Forestry seed costs shall be deducted from these prices when seedlings are produced from seed supplied by the Customers.

2. When there is a surplus of seedlings above planned or expected sales, a more accelerated rate of price reductions will be considered, subject to the approval of the State Forester and/or the Commissioner of Agriculture and Forestry.

3. This accelerated rate of discount will be applied no earlier than 30 days prior to the anticipated end of the annual lifting season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1503, redesignated R.S. 3:4303.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, Forestry Commission, LR 8:285 (June 1982), amended LR 10:468 (June 1984), amended by the Louisiana Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission LR 13:432 (August 1987), LR 19:610 (May 1993), LR 21:671 (July 1995), LR 22:1210 ((December 1996), LR 26:2437 November 2000).

Family Impact Statement

The proposed amendment to Rule Title XXXIX.Chapter 3 regarding tree seedling prices should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Charles Mathern through the close of business on November 26, 2003 at P.O. Box 1628, Baton Rouge, LA, 70821 (5825 Florida Blvd., Baton Rouge). A public hearing will be held on these Rules on November 26, 2003 at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these Rules is necessary.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Tree Seedling Prices**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated. The amendment of these Rules and regulations is necessary to assure that the agency's nursery operations continue to generate the revenue necessary to operate on a fiscally sound basis. The agency's nursery operations are funded entirely from self-generated seedling sale revenue. This action is proposed so that the selling price of

seedlings will sufficiently cover the production costs of those seedlings. In the past, the programs expenditures related to these services have exceeded collections; therefore, the fee increase is necessary to increase dedicated funds to offset a decrease in state general funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule increases the prices for hardwood seedlings from \$185 per thousand to \$200 per thousand. Annual sales of hardwood in 2002 were approximately 2,440,000 seedlings. If future sales and production equal those of recent years, Office of Forestry revenue would increase by approximately \$38,000.

The proposed Rule also increases the prices for Pine Seedlings according to the following schedule.

Superior Loblolly Pine	from \$ 32/M	to \$ 35/M
Long Leaf Pine	from \$ 52/M	to \$ 75/M
Spruce Pine	from \$ 52/M	to \$ 75/M
Virginia Pine	from \$ 52/M	to \$ 75/M
Baldcypress	from \$ 185/M	to \$ 200/M

Annual sales of pine seedlings approximately 24,261,000 seedlings. If future sales and production equal those of recent years, Office of Forestry revenue would increase by approximately \$85,000.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Customers who purchase pine and hardwood seedlings from the Office of Forestry would pay the additional costs for the seedlings.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have a net effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0310#066

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of the Commissioner**

**Meat and Poultry Inspections
(LAC 7:XXXIII.101)**

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner, proposes to amend regulations regarding the Meat and Poultry Inspection Program.

The proposed changes will adopt Title 9, Chapter III A, of the *Code of Federal Regulations* and Subchapter E, of the *Code of Federal Regulations*: 416 Sanitation, 417 Hazard Analysis and Critical Control Point (HACCP) Systems, 500 Rules of Practice. The proposed regulations will also remove all references to the word "Permit" and replaces it with the word "License" and removes references to "Handbook 191" and all references to Blueprints submissions and replaces those with the statement "latest addition of the Code of Federal Regulations."

These rules are enabled by R.S. 3:4222 and R.S. 3:4232.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIII. Meat and Poultry Inspections

Chapter 1. Meat and Poultry Inspection Program

§101. Adoption of Federal Meat and Poultry

Inspection Regulations

A. The Louisiana Cooperative Federal/State Meat and Poultry Inspection Program will be governed by the rules and regulations contained in the Meat and Poultry Inspection Regulations of the Meat and Poultry Inspection Program of the U.S. Department of Agriculture, in effect as of the effective date of these regulations and all subsequent changes.

1. Meat and Poultry Inspection Regulations: Title 9, Chapter III, Subchapter A, *Code of Federal Regulations*.

2. Regulatory requirements under Federal Meat Inspection Act and Poultry Products Inspection Act: Title 9, Chapter III, Subchapter E, *Code of Federal Regulations*: 416 Sanitation, 417 Hazard Analysis and Critical Control Point (HACCP) Systems, 500 Rules of Practice

B. The Louisiana Cooperative Federal/State Meat and Poultry Inspection Program will be governed by the requirements in the latest addition of the Code of Federal Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4222 and R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:708 (December 1980), amended by the Louisiana Department of Agriculture and Forestry, Office of Animal Health Services, LR 30:

Family Impact Statement

The proposed amendments to Title 7, Part XXXIII, §101 regarding the Meat and Poultry Inspection Program should not have any known or foreseeable impact on any family as defined by R. S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may submit written comments on the proposed Rules through November 26, 2003, to Mike Windham, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, Louisiana 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above. No preamble concerning the proposed Rules is available.

Bob Odum
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Meat and Poultry Inspections

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated.

The proposed changes will adopt Title 9, Chapter III A, of the Code of Federal Regulations and Subchapter E, of the Code of Federal Regulations: 416 Sanitation, 417 Hazard Analysis and Critical Control Point (HACCP) Systems, 500 Rules of Practice. The proposed regulations will remove all reference to the word "Permit" and replaces it with the word "License" and removes references to "Handbook 191" and all references to Blueprints submissions and replaces those with the statement "latest addition of the Code of Federal Regulations".

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no anticipated 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 anticipated costs and/or economic benefits to affected persons or non-governmental groups as facilities are already conducting the inspection system as mandated by "equal to" provisions already established in the law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have an effect on competition and employment.

Skip Rhorer Robert E. Hosse
Assistant Commissioner General Government Section Director
0310#070 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of the Commissioner**

**Pesticide Testing Fees
(LAC 7:XXIII.131)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, proposes to amend regulations regarding pesticide testing fees.

These Rules and regulations are necessary to conform to state statute and fund the operations of the Division of Pesticides and Environmental Programs. The fiscal year begins on the first of July. Adoption of permanent Rules will be in accordance with the Administrative Procedure Act. However, this process takes several months to complete.

These Rules are enabled by R.S. 3:3202, R.S. 3:3221, R.S. 3:3222 and R.S. 3:3251.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

Subchapter G. Fees

§131. Fees

A. Fees required under the Louisiana Pesticide Law to be adopted by regulation are established as:

Special Local Need Registration Application Fee	\$100
Examination Fees (for each exams' Private Applicator exempt)	
In Baton Rouge	\$ 25
At Meeting outside Baton Rouge	\$ 25
At District Offices	\$ 50
Duplicate Licenses and/or Certification Cards	Same as Original
Requested Lists and Copies	Postage + minimum of \$1 or Postage + \$0.25 /page

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3221, R.S. 3:3222 and R.S. 3:3251.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:194 (March 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 24:281 (February 1998), LR 30:

Family Impact Statement

The proposed amendments to Rules LAC XXIII regarding pesticide registration, certification and testing fees. These regulations should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

A public hearing will be held on these Rules on November 25, 2003 at 9 a.m. at the address listed below. Interested persons should submit written comments on the proposed Rules to Bobby Simoneaux through December 1, 2003 at 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these Rules is available.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Pesticide Testing Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated. The Louisiana Department of Agriculture and Forestry proposes to amend regulations regarding testing fees to conform to state statute and fund the operations of the Division of Pesticides and Environmental Programs. There will be an increase in costs to individuals for examination testing of \$10,500. The testing fee increase of \$15 per test for individuals testing in Baton Rouge, \$10 per test for individuals testing in meetings and \$30 per test for individuals testing in the District Offices. In the past, the programs expenditures related to these services have exceeded

collections; therefore, the fee increase is necessary to increase dedicated funds to offset a decrease in state general funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be a total increase in revenue collections of \$10,500 to the Division of Pesticides and Environmental Programs. The increase in collections was calculated using the number of tests given times the increase in fees for an increase of \$10,500.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be an increase in costs to individuals for examination testing of \$10,500. The testing fee increase of \$15 per test for individuals testing in Baton Rouge, \$10 per test for individuals testing in meetings and \$30 per test for individuals testing in the District Offices for a total increase of \$10,500.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have a net effect on competition and employment.

Skip Rhorer Robert E. Hosse
 Assistant Commissioner General Government Section Director
 0310#072 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
 Office of the Commissioner**

**Tropical Soda Apple and Noxious Weed Seeds
 (LAC 7:XIII.109, 145)**

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Louisiana Seed Commission, proposes to amend regulations to include Tropical Soda Apple (*Solanum viarum* Dunal) as a prohibitive noxious weed into the List and Limitations of Noxious Weed Seed and Noxious Weeds.

The Department of Agriculture and Forestry, Louisiana Seed Commission intends to amend these rules and regulations for the purpose of preventing the introduction and spread of Tropical Soda Apple, a prohibitive noxious weed in the Federal Seed Act. There are currently seed lots (bahia grass and jointvetch) coming out of Florida contaminated with TSA. These amendments will allow us to take regulatory action if found in our regular sampling.

These rules are enabled by R.S. 3:1433.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Louisiana Seed Law

§109 List and Limitations of Noxious Weed Seed

List and Limitations of Noxious Seed	
Name	Limitations
1. Tropical Soda Apple (<i>Solanum viarum</i> Dunal)	Prohibited
2. Field Bindweed (<i>Convolvulus arvensis</i>)	Prohibited
3. Hedge Bindweed (<i>Convolvulus sepium</i>)	Prohibited
4. Nutgrass (<i>Cyperus esculentus</i> , <i>C. rotundus</i>)	Prohibited
5. Itchgrass (<i>Rottboellia exaltata</i> , L., <i>R. cochinchinensis</i>)	Prohibited
6. Balloon Vine (<i>Cardiospermum halicacabum</i>)	Prohibited
7. Cocklebur (<i>Xanthium</i> spp.)	5 per lb.
8. Spearhead (<i>Rhynchospora</i> spp.)	5 per lb.

9. Purple Moonflower (<i>Ipomoea turbinata</i>)	9 per lb.
10. Red Rice (<i>Oryza sativa</i> var.)	9 per lb.
11. Wild Onion and/or Wild Garlic (<i>Allium</i> spp.)	9 per lb.
12. Canada Thistle (<i>Cirsium arvense</i>)	100 per lb.
13. Dodder (<i>Cuscuta</i> spp.)	100 per lb.
14. Johnsongrass (<i>Sorghum halepense</i>)	100 per lb.
15. Quackgrass (<i>Agropyron repens</i>)	100 per lb.
16. Russian Knapweed (<i>Centaurea repens</i>)	100 per lb.
17. Blueweed, Texas (<i>Helianthus ciliaris</i>)	200 per lb.
18. Grass, Bermuda (<i>Cynodon dactylon</i>)	300 per lb.
19. Bracted Plantain (<i>Plantago aristata</i>)	300 per lb.
20. Buckhorn Plantain (<i>Plantago lanceolata</i>)	300 per lb.
21. Cheat (<i>Bromus secalinus</i>)	300 per lb.
22. Hairy Chess (<i>Bromus commutatus</i>)	300 per lb.
23. Corncockle (<i>Agrostemma githago</i>)	300 per lb.
24. Darnel (<i>Lolium temulentum</i>)	300 per lb.
25. Dock (<i>Rumex</i> spp.)	300 per lb.
26. Horsenettle (<i>Solanum carolinense</i>)	300 per lb.
27. Purple Nightshade (<i>Solanum elaeagnifolium</i>)	300 per lb.
28. Sheep Sorrel (<i>Rumex acetosella</i>)	300 per lb.
29. Morning Glory (<i>Ipomoea</i> spp.)	18 per lb.
30. Wild Poinsettia (<i>Euphorbia heterophylla</i> , <i>E. dentata</i>)	18 per lb.
31. Wild Mustard and Wild Turnips (<i>Brassica</i> spp.)	300 per lb.
32. Hemp Sesbania, Coffeebean, Tall Indigo (<i>Sesbania exaltata</i>)	300 per lb.
33. Curly Indigo (<i>Aeschynomene virginica</i>)	300 per lb.
34. Mexican Weed (<i>Caperonia castaneaefolia</i>)	300 per lb.
Sum of Total Noxious Weed (Subject to limitations above)	500 per lb.

A. Limitations on noxious and prohibited weeds are listed on individual certified crop seed regulations. Noxious weed seed tolerance of one for regulatory action on certified seed being offered for sale in Louisiana for those noxious weed seed which are prohibited by the Louisiana Certified Seed Regulations for the specific seed kind in question.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended LR 5:96 (May 1979), LR 7:285 (June 1981), LR 8:563 (November 1982), LR 9:197, 206 (April 1983), LR 12:825 (December 1986), LR 14:605 (September 1988), LR 23:1282 (October 1997), LR 30:

§145. Noxious Weeds

A. The following weeds, together with the specific limitation shown for each weed, are designated as noxious weeds.

Limitations on Weed Seed in Certified Seed	(By Pounds)
1. Tropical Soda Apple (<i>Solanum viarum</i> Dunal)	Prohibited
2. Field Bindweed (<i>Convolvulus arvensis</i>)	Prohibited
3. Hedge Bindweed (<i>Convolvulus sepium</i>)	Prohibited
4. Nutgrass (<i>Cyperus esculentus</i> , <i>C. rotundus</i>)	Prohibited
5. Itchgrass (<i>Rottboellia exaltata</i> L., <i>R. cochinchinensis</i>)	Prohibited
6. Balloonvine (<i>Cardiospermum halicacabum</i>)	Prohibited
7. Cocklebur (<i>Xanthium</i> spp.)	5 per lb.
8. Spearhead (<i>Rhynchospora</i> spp.)	5 per lb.
9. Purple Moonflower (<i>Ipomoea turbinata</i>)	9 per lb.
10. Red Rice (<i>Oryza sativa</i> var.)	9 per lb.
11. Wild Onion and/or Wild Garlic (<i>Allium</i> spp.)	9 per lb.
12. Canada Thistle (<i>Cirsium arvense</i>)	100 per lb.
13. Dodder (<i>Cuscuta</i> spp.)	100 per lb.
14. Johnsongrass (<i>Sorghum halepense</i>)	100 per lb.
15. Quackgrass (<i>Agropyron repens</i>)	100 per lb.
16. Russian Knapweed (<i>Centaurea repens</i>)	100 per lb.
17. Blueweed, Texas (<i>Helianthus ciliaris</i>)	200 per lb.
18. Bermuda Grass (<i>Cynodon dactylon</i>)	300 per lb.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Tropical Soda Apple and
Noxious Weed Seeds**

19. Bracted Plantain (<i>Plantago aristata</i>)	300 per lb.
20. Buckhorn Plantain (<i>Plantago lanceolata</i>)	300 per lb.
21. Cheat (<i>Bromus secalinus</i>)	300 per lb.
22. Hairy Chess (<i>Bromus commutatus</i>)	300 per lb.
23. Corncockle (<i>Agrostemma githago</i>)	300 per lb.
24. Darnel (<i>Lolium temulentum</i>)	300 per lb.
25. Dock (<i>Rumex spp.</i>)	300 per lb.
26. Horsenettle (<i>Solanum carolinense</i>)	300 per lb.
27. Purple Nightshade (<i>Solanum elaeagnifolium</i>)	300 per lb.
28. Sheep Sorrel (<i>Rumex acetosella</i>)	300 per lb.
29. Morning Glory (<i>Ipomoea spp.</i>)	18 per lb.
30. Wild Poinsettia (<i>Euphorbia heterophylla, E. dentate</i>)	18 per lb.
31. Wild Mustard and Wild Turnips (<i>Brassica spp.</i>)	300 per lb.
32. Hemp Sesbania, Coffee Bean, Tall Indigo (<i>Sesbania exaltata</i>)	300 per lb.
33. Curly Indigo (<i>Aeschynomene virginica</i>)	300 per lb.
34. Mexican Weed (<i>Caperonia castaneaefolia</i>)	300 per lb.
Sum of Total Noxious Weed Seed (Subject to limitation above)	500 per lb.

B. Noxious weed seeds are permitted in seed to be certified, within the limitations specified in §145.A, unless prohibited or otherwise limited under the specific rules for the crop or variety entered for certification. (See §§155-221 for limitations on each noxious weed for each crop or variety.)

C. Limitations on noxious weeds (in the field or in seed to be certified), may be more restrictive for a particular crop or variety to be certified than the limitations shown in §145.A above. The limitation on noxious weeds stated in §§155-221 shall supersede the limitations shown in §145.A whenever a more restrictive limitation is stated in the specific requirements for the crop or variety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 9:197 (April 1983), LR 12:825 (December 1986), LR 14:605 (September 1988), LR 23:1283 (October 1997), LR 30:

Family Impact Statement

The proposed amendments to Title 7 Part XIII. §109, §145 regarding List and Limitations of Noxious Weed Seed, Noxious Weeds should not have any known or foreseeable impact on any family as defined by R. S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may submit written comments on the proposed Rules through November 26, 2003, to Eric Gates, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, Louisiana 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above. No preamble concerning the proposed Rules is available

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no implementation costs or savings to state or local governmental units. The Louisiana Seed Commission is proposing to include Tropical Soda Apple (*Solanum viarum* Dunal) as a prohibitive noxious weed into the List and Limitations of Noxious Weed Seed and Noxious Weeds. Tropical soda apple is a prohibitive noxious weed in the Federal Seed Act. There are currently seed lots (bahiagrass and jointvetch) coming out of Florida contaminated with TSA. These amendments will allow us to take regulatory action if found in our regulatory sampling.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no increase in revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no increase in costs or economic benefits to affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments will have no effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0310#071

Robert E. Hosse
General Governor Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of
School Personnel

Louisiana Definition of Highly Qualified Teachers and
Paraprofessionals (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 746C Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy outlines a Louisiana definition for highly qualified teachers and highly qualified paraprofessionals, as required by the No Child Left Behind Act of 2001.

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, LR 1:183 (April 1975), LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:541 (December 1975), amended LR 28:760 (April 2002), LR 28:763 (April 2002), LR 28:765 (April 2002), LR 28:990 (May 2002), LR 30:

* * *

State of Louisiana Highly Qualified Teacher Requirements Background Information

The requirement that teachers be highly qualified applies to any public elementary, middle, or secondary school teacher. The Louisiana Department of Education (LDE) is the state agency/entity responsible for prescribing qualifications and providing for the certification of teachers under authority of (R.S. 17:7.1).

The Louisiana Department of Education is collaborating with the Board of Elementary and Secondary Education and the Board of Regents on state activities under No Child Left Behind (NCLB) Act of 2001 related to "highly qualified teachers."

Timeline

All teachers hired on or after the first day of the 2002-2003 school year to work in programs supported by Title I funds and who teach core academic subjects must be highly qualified. All teachers of core academic subjects must meet highly qualified status by the end of the 2005-2006 school year.

Statutory Requirements for Certification

To obtain initial Louisiana certification, one must hold at least a baccalaureate degree, have earned a minimum grade point average of a cumulative 2.50, and have demonstrated subject knowledge and teaching skills in the certification area by passing rigorous exams required in Louisiana.

Academic Major

In the State of Louisiana, for the purpose of NCLB, teachers who completed an academic content major are highly qualified in that content area.

Advanced Certification

For the purpose of NCLB, advanced certification is defined as having a master's degree or higher degree in the content area. Teachers qualifying as highly qualified under this option must meet all applicable state laws.

Advanced Credentialing

Advanced credentialing has been defined as successful completion of a rigorous credentialing process that is based on a high objective uniform standard. The National Board of Professional Teaching Standards uses a process for certifying its candidates that meets this standard.

Applicability

The requirement that "all" teachers be highly qualified applies to "all public elementary and secondary school teachers" assigned to core academic subjects. Special education teachers, including teachers who teach students identified as "academically gifted," who are providing instruction in core academic subjects must meet the "highly qualified" requirements of the ESEA.

Core Academic Subjects

Core academic subjects have been defined in the mandate as English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. States may decide which arts courses will be considered as core academic subjects.

Standard Teaching Certificates

The State of Louisiana currently issues different standard teaching certificates to persons who have completed a state-approved teacher education program (through a traditional or alternate approach) and who earned a degree from a regionally accredited institution of higher education or an approved private provider. The type and a brief description of each standard license follow.

Out of State Certificate—Issued to a teacher certified in another state who meets all requirements for a Louisiana certificate, except for the PRAXIS examinations. Teacher must demonstrate subject matter competency by taking and passing the rigorous state academic subject test (PRAXIS) in each of the content areas in which he/she is seeking certification; *or*, the teacher must provide evidence of at least four years of successful teaching experience in another state, complete one year of employment as a teacher in Louisiana public school systems, and secure the recommendation of the local superintendent of the employing school system for continued employment.

Level 1 Professional Certificate—After July 1, 2002, issued to teachers who complete a state approved teacher preparation program (traditional or alternative path), demonstrate subject matter competency by taking and passing the rigorous state academic subject test (PRAXIS) in each of the content areas in which he/she is seeking certification, and who are recommended by an accredited college/university to receive a Level 1 Professional Certificate; *or*

Teachers seeking alternate certification must complete an approved Practitioner Teacher or other alternate program, pass PRAXIS, and be recommended by the alternate program provider to receive a Level 1 Professional Certificate; *or*

Teacher must meet the requirements of an out-of-state certified teacher.

A teacher may hold a Level 1 certificate for three (3) years in his/her career, with the possibility of one three-year extension of the certificate under specified circumstances.

Level 2 Professional Certificate—Teachers with a Level 1 Professional Certificate must successfully complete the Louisiana Teacher Assistance and Assessment Program and teach for three years in an area of certification to receive a Level 2 Professional Certificate. Teachers must complete 150 continuing learning units (CLUs) of professional development over a five (5) year time period in order to renew a Level 2 Professional License.

Level 3 Professional Certificate—Teachers with a Level 1 or Level 2 Certificate are eligible for a Level 3 Certificate if they complete a master's degree, teach for five years in an area of certification, and successfully complete the Louisiana Teacher Assistance and Assessment Program. Teachers must complete 150 continuing learning units (CLUs) of professional development over a five (5) year time period in order to renew a Level 3 Professional License.

Type C Certificate—Type C certificates were issued prior to July 1, 2002. Persons who received the Type C certificate prior to July 1, 2002, are able to continue in the track leading to permanent licensure. Teachers were issued this license after successful completion of an approved undergraduate or alternate teacher education program, passing the required licensing exams for the area of certification, and receiving

the recommendation of an accredited college/university to receive a Type C Certificate.

Type B Certificate—Candidates currently holding 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. To receive a Type B certificate, teachers holding a Type C certificate must successfully complete the Louisiana Teacher Assistance and Assessment Program and teach for three years in an area of certification.

Type A Certificate—Candidates currently holding Type A 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. To receive a Type A certificate, teachers holding a Type C or Type B certificate must earn a master's degree, successfully complete the Louisiana Teacher Assistance and Assessment Program, and teach for five years in an area of certification.

Practitioner License

The State of Louisiana issues four different practitioner teacher licenses to persons who are enrolled in a state-approved teacher education alternate program. Because these alternate routes to certification meet the requirements established in the federal mandate, teachers who meet criteria for enrollment in the alternate program are identified as "highly qualified."

The type of practitioner license corresponds to the alternate program type, as follows:

Practitioner License 1—Practitioner Teacher Program

Practitioner License 2—Non-Master's/Certification Only Program

Practitioner License 3—Master's Degree Certification Program

Practitioner License 4—Candidates not in a new alternate program who have at least a 2.50 grade point average, passed the Praxis Pre-Professional Skills Tests (PPSTs) and the Praxis content-specialty exam (or accumulated 31 semester hours of coursework in the specific content area of certification), but still lack full requirements for certification.

Nonstandard Teaching Certificates

The State of Louisiana currently issues three non-standard, temporary certificates. Teachers holding a temporary certificate do not meet the NCLB definition of "highly qualified teacher" because they have not demonstrated

subject matter competency under the No Child Left Behind legislation. The nonstandard certificate types and descriptions follow.

Temporary Authority to Teach—issued to an individual who graduates from a teacher preparation program but does not pass PRAXIS, or to an individual with a non-education degree who does not pass PRAXIS and is enrolled or must enroll in an alternate program leading to certification.

Out-of-Field Authorization to Teach—issued to an individual who holds a Louisiana teaching certificate but is teaching outside of the certified area.

Temporary Employment Permit—issued to an individual who meets all certification requirements with the exception of passing one NTE examination but scores within ten percent of the composite score required for passage, or who has not passed all required Praxis exams but has an aggregate score equal to or above the total required on all tests.

Technical Assistance And Support

The Louisiana Department of Education will provide technical assistance and support to local education agencies to ensure that the state is faithful in the implementation of the NCLB mandate. Technical assistance and support will include, but will not be limited to, the following:

Providing each candidate on a temporary license with a "feedback sheet": The Certification Specialists and Certification Counselors who receive the requests evaluate the transcripts (if available) and prepare feedback sheets. NOTE: The feedback sheets are prepared based on the information submitted to the state by the district representative.

Monitoring of certification folders: A monitoring plan is currently being developed.

Collaborating with the Board of Regents (BOR) and college/university personnel to discuss ways that college/university programs might assist the state by addressing the areas of need (e.g., if special education severe profound programs are needed in certain areas of the state, SDE staff will collaborate with university personnel and BOR to facilitate provision of such a program).

Prescribing the shortest route to certification: This activity is handled at the state level by the certification specialists and at the local level by the certification counselors.

Recruiting candidates to pursue teaching as a career, using a two-pronged approach: (a) a human resources component, through the regional certification counselors; and (b) a technological component through the Teach Louisiana website at www.teachlouisiana.net.

Highly Qualified Teacher in Louisiana New to the Profession

Overall	Elementary	Middle School	Secondary
Holds a certificate to teach in Louisiana (at least a Type C or Level 1 certificate, an Out-of-State certificate, or a Practitioner License); and	Holds elementary school education certificate, a special education certificate that includes elementary school grades, or a special foreign language certificate to teach a specific foreign language in grades K-8; and	Holds middle school education certificate; middle school math, English/ language arts, science, or social studies; a special education area that includes middle school grades; a secondary academic content area; or special foreign language certificate to teach a specific foreign language in grades K-8; AND	Holds certificate for every core academic subject the individual teaches; and
Has the equivalent of an academic major; or		Has the equivalent of an academic major in a content area appropriate to the middle school level, for every core academic subject the individual teaches; OR	Has the equivalent of an academic major for every core academic subject the individual teaches; or
Has passed the Louisiana licensing content-specific Praxis exam; or	Has passed the Louisiana content-specific elementary education licensing exam; and	Has passed the Louisiana subject-specific licensing exam required for a middle school academic content area or for a secondary (grades 7-12) academic content area that is appropriate to the middle school level, for every core academic subject the individual teaches; or	Has passed the Louisiana subject-specific licensing exam for every core academic subject the individual teaches; or
Has earned a master's degree in the content area in which he or she teaches; and		Has earned a master's degree in a pure content area (not in education) for every core academic subject the individual teaches; and	
Does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis.			

Highly Qualified Teacher in Louisiana

"Not New" Elementary Teacher	
1	Holds elementary school education certificate, a special education certificate that includes elementary school grades, or a special foreign language certificate to teach a specific foreign language in grades K-8; and
2	Does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
3	Has passed the Louisiana content-specific elementary education licensing exam; or
4	Holds a valid National Board for Professional Teaching Standards (NBPTS) certification in early childhood, middle childhood, or in a content area basic to the elementary school (e.g., Early Language Arts, Early Mathematics) and is teaching in the NBPTS area of certification; OR
5	Has at least 12 semester hours of credit in each of the four core disciplines (English/language arts, including reading and writing; math; science; and social studies); or
<p>QUALIFIES UNDER</p> <p>High Objective Uniform State Standard of Evaluation (HOUSSE)</p> <p>For NOT NEW ELEMENTARY TEACHERS</p> <p>(By School Year 2005-2006)</p> <p>A "not new" teacher who does not meet the requirements of paragraphs number 3, 4, or 5 above is considered highly qualified if he/she is state certified and teaching in the area of certification and if he/she completes ninety (90) Continuing Learning Units (CLUs) by the end of 2005-2006.</p> <p>*A Continuing Learning Unit (CLU) is a professional development activity that builds capacity for effective, research-based, content focused teaching and learning that positively impacts student achievement. The Louisiana Professional Development Guidance will be used to define the 90 continuing learning units.</p>	

Highly Qualified Teacher in Louisiana

"Not New" Middle School Teachers		"Not New" Secondary School Teachers
1	Holds a valid teaching certificate appropriate for grades 6-8 (e.g., Elementary Education 1-8, Upper Elementary Education 58, Middle School Education); a special education area that includes middle school grades; a secondary academic content area; or special foreign language certificate to teach a specific foreign language in grades K-8; and	Holds certificates for every core academic subject the individual teaches; and
2	Does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis; and	Does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
3	a) Has passed Louisiana subject-specific licensing exam required for a middle school academic content area or for a secondary (grades 7-12) academic content area that is appropriate to the middle school level, for every core academic subject the individual teaches; or b) Has the equivalent of an academic major in a content area appropriate to the middle school level, for every core academic subject the individual teaches; OR c) Has earned a master's degree in a pure content area (not in education) for every core academic subject the individual teaches; or d) Holds a valid National Board for Professional Teaching Standards (NBPTS) certification in a core content area and is teaching in the NBPTS area of certification; or	a) Has passed the Louisiana subject-specific licensing exam required for a secondary (grades 7-12) academic content area, for every core academic subject the individual teaches; OR b) Has the equivalent of an academic major in a secondary content area, for every core academic subject the individual teaches; OR c) Has earned a master's degree in a pure content area (not in education) for every core academic subject the individual teaches; or d) Holds a valid National Board for Professional Teaching Standards (NBPTS) certification in a core content area and is teaching in the NBPTS area of certification; or

QUALIFIES UNDER

High Objective Uniform State Standard of Evaluation (HOUSSE)

For "Not New" Middle School and Secondary Teachers

(By School Year 2005-2006)

A "not new" teacher who does not meet the requirements of the paragraphs 3(a), 3(b), 3(c), or 3(d) above is considered highly qualified if he/she is state certified and teaching in the area of certification and if he/she completes ninety (90) Continuing Learning Units (CLUs) by the end of 2005-2006. *A Continuing Learning Unit (CLU) is a professional development activity that builds capacity for effective, research-based, content focused teaching and learning that positively impacts student achievement. The Louisiana Professional Development Guidance will be used to define the 90 continuing learning units.

State of Louisiana Highly Qualified Paraprofessional Requirements and Institutions of Higher Education for Paraprofessional Education

The No Child Left Behind Act of 2001 was signed into law by President Bush on January 8, 2002. The Act was established to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging state academic achievement standards and state academic assessments. Title I, as amended by the No Child Left Behind Act, has new requirements for paraprofessionals.

Definition of Paraprofessional

For the purposes of Title I, Part A, a paraprofessional is an employee who provides instructional support in a program supported with Title I, Part A funds.

This includes paraprofessionals who (1) provide one-on-one tutoring if such tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher, (2) assist with classroom management, such as organizing instructional and other materials, (3) provide instructional assistance in a computer laboratory, (4) conduct parental involvement activities, (5) provide support in a library or media center, (6) act as a translator, or (7) provide instructional support services under the direct supervision of a teacher [Title I, section 1119(g)(2)].

Individuals who function as interpreters/transliterators and who are providing only communication assistance (not instructional support) and who possess one of the following Educational Interpreter certificates: Ancillary Provisional Certificate, Ancillary Grandfather Certificate, or Qualified Ancillary Certificate, are not considered paraprofessionals under Title I.

Individuals who work in food services, cafeteria or playground supervision, personal care services, non-instructional computer assistance, and similar positions are not considered paraprofessionals under Title I.

Requirements for Title I Paraprofessionals

All Title I paraprofessionals hired on or before January 8, 2002, and working in a program supported with Title I funds must meet the following requirements by January 8, 2006. All Title I paraprofessionals hired after January 8, 2002, must meet the following requirements to be hired:

Possess a secondary school diploma or its recognized equivalent (e.g., Graduate Equivalency Examination - GED). (NOTE: This includes paraprofessionals who serve as translators or who conduct parental involvement activities.); and

Pass a state approved assessment for paraprofessionals; or

Obtain an associate (or higher) degree at a higher education institution; or

Complete two years of full time study at an institution of higher education.

Louisiana's Pathways for Paraprofessionals to Meet State Requirements

The U.S. Department of Education specifies that paraprofessionals should be able to demonstrate knowledge of and the ability to assist in instruction in the areas of reading, writing, and math, or in "school readiness." Paraprofessionals are expected to have a working knowledge of these academic areas. Louisiana will offer all paraprofessionals three pathways to meet federal requirements.

Pathway 1: State Test

A paraprofessional who passes the ETS Para-Pro Assessment will meet state and federal requirements to be classified as a "highly qualified paraprofessional." A paraprofessional "not new to the profession" who passes the ACT Work Keys assessment and who has successful observations will meet the state and federal requirements to be classified as a "highly qualified paraprofessional."

Pathway 2: Two Years of Full Time Study (48 Semester Credit Hours)

State, district, and post-secondary education personnel collaborated in identifying course requirements for paraprofessionals (within a state approved institution of higher education) that will assist paraprofessionals when instructing students in the areas of reading, writing, math, and school readiness.

Pathway 3: Associate Degree

State, district, and post-secondary education personnel collaborated in identifying course requirements for paraprofessionals (within a state-approved institution of higher education) that will assist paraprofessionals when instructing students in the areas of reading, writing, math, and school readiness.

State Approved Institutions of Higher Education

State-approved higher education institutions may offer coursework to paraprofessionals. To be approved by the state, institutions must be accredited by a nationally recognized accrediting agency/association or granted pre-accreditation status. Newly developed public institutions that are formally seeking accreditation through the Southern Association for Colleges and Schools may obtain pre-accreditation status from the state. A list of approved institutions is available from the Department of Education upon request.

Highly Qualified Paraprofessional in Louisiana

New to the Profession
Pathway 1: Has passed the Educational Testing Service Para-Pro Assessment; or
Has two years of full-time study (48 semester credit hours) from the recommended list of state-approved institutions of higher education or from a regionally accredited institution(s) of higher education. A total of 18 hours of general education course requirements include English Composition (3), English/Reading (6), and Mathematics (9). For the remaining 30 hours of coursework, acceptance of credit for a course shown on a transcript from an approved higher education institution is left to school district discretion in addressing the needs of the specific job; OR
Has Associate of Arts or Associate of Applied Science degree from a state-approved or regionally accredited institution of higher education.
"Not New" Paraprofessionals (By January 2006)
Pathway 1: Has passed the Educational Testing Service Para-Pro Assessment; or
Pathway 2: Has two years of full-time study (48 semester credit hours) from the recommended list of state-approved institutions of higher education or from a regionally accredited institution(s) of higher education. A total of 18 hours of general education course requirements include English Composition (3), English/Reading (6), and Mathematics (9). For the remaining 30 hours of coursework, acceptance of credit for a course shown on a transcript from an approved higher education institution is left to school district discretion in addressing the needs of the specific job; or
Pathway 3: Has Associate of Arts or Associate of Applied Science degree from a state-approved or regionally accredited institution of higher education; or
Pathway 4: Has successfully completed the ACT, Inc., Work Keys skills assessments and on-the-job observation.

Curriculum Pathways for Paraprofessionals

Course Types	Recommended Courses				
	Pathway 1: Para-Pro Assessment	Pathway 2:** 48 credit hours	Pathway 3		
			Associate of Science Degree	Associate of Applied Science Degree (60+ credit hours)	Associate of Arts Degree (60+ credit hours)
*General Education Courses		English Composition (3) English/Reading (6) Mathematics (9)		English Composition (3), Humanities (3), Math - Algebra (3), Natural Sciences (3), Social/Behavioral Science (3)	English Composition (6), Humanities (Eng. Lit.) (6), Math-Algebra, etc. (12), Natural Sciences (15), Social/ Behavioral Sciences (12), Fine Arts (3)
Teacher Preparation Courses				Child/Adolescent Develop. (3)	Select 3 of the following: Child/ Adolescent Develop. (3); Educational Psychology (3); Multi-cultural/Exceptional Education (3); Educational Technology (3); Children's Literature (3)
Paraprofessional Courses		For remaining 30 hours of coursework, acceptance of credit for a course shown on a transcript from an approved institution of higher education is left to school district discretion in addressing the needs of the specific job. Guidelines for prescriptive plan requiring additional course-work: School districts should consider at least 3 hours of reading and at least 12 hours from list of available paraprofessional courses, as follows: Strategies for Teaching and Learning; Assessment of Learning; Classroom and Behavior Management; and Addressing the Needs of Exceptional Children. Discipline-specific electives may include as many as 12 hours of developmental (remedial) courses.		Introduction to Paraprofessional Education (3); Applied Literacy Development (3); Strategies for Teaching and Learning (3); Applied Assessment of Learning (3); Applied Classroom/ Behavior Mgt. (3); Addressing the Needs of Exceptional Children (3); Application of Computer Techno-logy (3); Family, School, & Community Relations (3); Health & Safety in Schools (3); Paraprofessional Practicum- Teaching, Learning, & Record Keeping (3)	

*General Education and Teacher Preparation courses must address the K-12 state content standards, Louisiana Components of Effective Teaching, NCATE standards, and PRAXIS expectations.

**Pathway 2 was formally adopted by the State Board of Elementary and Secondary Education on June 19, 2003, as part of Louisiana's highly qualified paraprofessional definition, after being amended to reflect further collaboration by state department and district personnel, as shown above.

* * *

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No
3. Will the proposed Rule affect the functioning of the family? No
4. Will the proposed Rule affect family earnings and family budget? No
5. Will the proposed Rule affect the behavior and personal responsibility of children? No
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No

Interested persons may submit comments until 4:30 p.m., December 9, 2003, 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 Louisiana Definition of Highly Qualified Teachers and Paraprofessionals

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This policy outlines a Louisiana definition for highly qualified teachers and highly qualified paraprofessionals, as required by the No Child Left Behind Act of 2001. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0310#032

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 Personnel Practitioner Teacher Program (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 746C Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy amends current policy to:

- (1) provide that the assessment portion of the Louisiana Teacher Assistance and Assessment Program not remain a requirement for full completion of the Practitioner Teacher Program for alternate certification,
- (2) retain the mentoring component as a continued support mechanism for the internship for all Practitioner Teacher Program candidates, and
- (3) allow eligibility of candidates for Level 1 certificates at the completion of the internship year, provided all other program requirements have been met. This amended policy will allow those completing the Practitioner Teacher Program to become certified prior to completing the assessment portion of the Louisiana Teacher Assistance and Assessment Program, as is the case for all other candidates for initial Louisiana certification.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations §903. Teacher Certification Standards and Regulations A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183 (April 1975), LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:541 (December 1975), amended LR 28:2505 (December 2002), LR 29:117 (February 2003), LR 29:119 (February 2003), LR 29:121 (February 2003), LR 30:

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 2.2 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 of 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 12 credit hours (or 180 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 1 Professional License after successfully completing all requirements for the Practitioner Teacher Program (which includes passing scores on the PRAXIS).

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 nine 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 passing scores on the PRAXIS in the specialty areas) and must teach for a total of three years before receiving a Level 2 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:

1. universities;
2. school districts; and
3. 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"> a. possess a baccalaureate degree from a regionally accredited university. b. have a 2.2 GPA on undergraduate work. (*Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider.) 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.) d. pass the content specific examinations for the PRAXIS: <ol style="list-style-type: none"> (1) Practitioner candidates for Grades 1-6 (regular and special education): Pass the Elementary Education Content Knowledge (#0014) examination; (2) Practitioner candidates for Grades 4-8 (regular and special education): Pass the Middle School Content Knowledge (#0146) examination; (3) Practitioner candidates for Grades 7-12 (regular and special education): Pass the content specialty examination(s) (e.g., English, mathematics, etc.) on the PRAXIS in the content area(s) in which they intend to teach. e. meet other non-course requirements established by the program providers. 	
2. Teaching Preparation (Summer)	9 credit hours or 135 equivalent contact hours (5-8 weeks)	<p>All teachers will participate in field-based experiences in school settings while completing the summer courses (or equivalent contact hours).</p> <p>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.</p> <p>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.</p>	Program Providers
3. Teaching Internship And First Year Support (Fall and Spring)	12 credit hours or 180 equivalent contact hours throughout the year.	<p>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 a year-long 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.</p>	Program Providers, Principals and Mentors
4. Teaching Performance Review (End of First Year)		<p>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 nine credit hours (or 15-135 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.</p>	
5. Prescriptive Plan Implementation (Second Year)	9 credit hours (or 15-135 equivalent hours)	<p>Practitioner teachers who demonstrate areas of need will complete prescriptive plans.</p>	Program Providers
6. Louisiana Assessment Program (Second Year)		<p>Practitioner teachers will be assessed during the fall or later depending upon their teaching proficiencies.</p>	Program Providers
7. Praxis Review (Second Year)		<p>Program providers will offer review sessions to prepare practitioner teachers to pass remaining components of the PRAXIS.</p>	Program Providers

<p>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.)</p>		<p>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:</p> <ol style="list-style-type: none"> 1. passed the PPST components of the PRAXIS. (Note: This test was required for admission.) 2. completed the Teaching Preparation and Teaching Internship segments of the program with a 2.5 or higher cumulative GPA. 3. completed prescriptive plans (if weaknesses were demonstrated). 4. passed the specialty examination (PRAXIS) for their area(s) of certification. <ol style="list-style-type: none"> a. Grades 1-6: Elementary Education Content Knowledge Examination #0014 (Note: This test was required for admission) b. Grades 4-8: Middle School Content Knowledge Exam (#0146); c. (Note: This test was required for admission.) d. Grades 7-12: Specialty content test in areas to be certified. (Note: This test was required for admission.) e. Mild/Moderate Special Education 1-12: Special Education (to be determined) 5. passed the Principals of Learning and Teaching examination (PRAXIS) <ol style="list-style-type: none"> a. Grades 1-6: Principles of Learning and Teaching; b. Grades 4-8: Principles of Learning and Teaching; c. Grades 7-12: Principles of Learning and Teaching. 	
<p>9. Ongoing Support (Second and Third Year)</p>		<p>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.</p>	<p>Program Providers</p>
<p>10. Professional License (Practitioner License to Type 2)</p>		<p>Practitioner teachers will be issued a Practitioner License when they enter the program. They will be issued a Level 1 Professional License once they have successfully completed all requirements of the program; after three years of teaching they will be eligible for a Level 2 license.</p>	

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.

* * *

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No
3. Will the proposed Rule affect the functioning of the family? No
4. Will the proposed Rule affect family earnings and family budget? No
5. Will the proposed Rule affect the behavior and personal responsibility of children? No
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No

Interested persons may submit comments until 4:30 p.m., December 9, 2003, 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: Requirements for the Practitioner Teacher Program

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This policy amends current policy, to (1) provide that the assessment portion of the Louisiana Teacher Assistance and Assessment Program not remain a requirement for full completion of the Practitioner Teacher Program for alternate certification, (2) retain the mentoring component as a continued support mechanism for the internship for all Practitioner Teacher Program candidates, and (3) allow eligibility of candidates for Level 1 certificates at the completion of the internship year, provided all other program requirements have been met. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate this policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs. Economic benefits may accrue to Practitioner Teacher Program candidates by allowing them to obtain full certification credentialing at an earlier stage in their teaching careers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The current policy will have no effect on competition and employment, other than to change the status of already practicing teachers to full certification credentialing at an earlier stage in their teaching careers. This may give them an employment advantage over teachers who are not yet fully certified.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0310#033

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1963C Louisiana Arts Content Standards
State Standards for Curriculum Development
(LAC 28:LI.Chapters 1-9)

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 revision of *Bulletin 1963C Louisiana Arts Content Standards*. This document replaces any previously advertised versions. Bulletin 1963, which was originally approved by BESE in 1997, has been revised to ensure it is up-to-date and appropriate to serve as the foundation for assessment development. The *Louisiana Arts Content Standards* will benefit district fine arts education programs throughout the state by serving as a guide for curriculum development and instruction in fine arts education. With a strong emphasis on developing knowledge, skills, and habits, these content standards are focused on student and society's needs. With their adoption, Louisiana fine arts education programs will be closely aligned with the *National Standards for Arts Education*.

Title 28

EDUCATION

Part LI. Bulletin 1963C Louisiana Arts Content Standards

Chapter 1. General Provisions

§101. Introduction

A. The arts—dance, music, theatre arts, and visual arts, are fundamental to the intellectual, social, emotional, and physical development of Louisiana students in the twenty-first century. The arts draw on a range of intelligence, aesthetics, and learning styles not addressed in most educational environments.

B. Students of the arts are encouraged to use their imaginations, to develop personal discipline, and to find multiple solutions to problems. They learn to respond to events and experiences with confidence and to communicate their feelings and viewpoints through appropriate creative outlets.

C. Business demands workers who possess an ability to communicate, to be flexible, and to diagnose problems and find creative solutions. The arts preceded speech as man's first language; they assisted in the development of the skills of communication and the integration of basic skills of reading, writing, science, and mathematics. These skills help

students shape their lives, their communities, and their nation. The arts make all subjects come alive.

D. The Louisiana Arts Content Standards bring together the basic content of the four disciplines of dance, music, theatre arts, and visual arts, into one common set of standards essential for a comprehensive arts education. The twenty-first century, the age of information, requires more from the next generation of students. The relevance of education in a rapidly changing society will depend on converging the aims of education and the workforce for well-rounded, educated students who will be productive members of society. The arts will assist in the achievement of these aims with the implementation of these rigorous and challenging content standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§103. Standards of Arts Education

A. Creative Expression. Creative Expression is the ability to imagine, organize and interpret ideas for expression in the process of creating and producing art forms which involve inspiration, analysis, and problem solving.

1. Standard. Students develop creative expression through the application of knowledge, ideas, communication skills, organization abilities, and imagination.

B. Aesthetic Perception. Aesthetic Perception is the ability to perceive the unique characteristics of natural environments and human creations, to respond to aesthetic ideas and experiences, and to develop awareness of beauty and meaning in the arts.

1. Standard. Students develop aesthetic perception through the knowledge of art forms and respect for their commonalities and differences.

C. Historical and Cultural Perspective. Historical and Cultural Perspective is the ability to recognize the arts as a reflection of individual and cultural expression and to appreciate the aspects of history and human experience.

1. Standard. Students develop historical and cultural perspective by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

D. Critical Analysis. Critical Analysis is the ability to interpret, analyze and synthesize the performing and visual arts to form judgments based on sufficient and appropriate criteria.

1. Standard. Students make informed verbal and written observations about the arts by developing skills for critical analysis through the study of and exposure to the arts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§105. Definitions

Assessment—A process through which evidence is gathered in a range of *content areas* to determine both a student's understanding and the ability to apply that understanding.

Benchmark—A broad statement of process and/or content that is used as a reference to develop curricula and to assess student progress.

Content AreaCa field of study or branch of knowledge formally referred to as a subject area or discipline.

Content StandardCa description of what students should know and be able to do through subject matter, knowledge, proficiencies, etc., gained as a result of their education.

FocusCa statement describing the importance of a content strand.

Foundation SkillsCprocesses that are common to all areas and levels of education and that are intended to suggest methods and objectives of instructional strategies.

FrameworkCa document for a *content area* that reflects national standards and provides a guiding vision of its content and purpose.

IntegratedCthe combining the elements across the strands within a particular *content area* or *framework*.

InterdisciplinaryCthe combining of the elements across the various *content areas* or *frameworks*.

Performance StandardsCthe level of knowledge or proficiency that students should manifest as a result of their education.

StrandsCcategories within particular *content areas*, which may vary from discipline to discipline. *Strands* are interrelated and should be *integrated*, rather than taught in isolation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§107. Foundation Skills

A. The following foundation skills shall apply to all students in all disciplines. These foundation skills are listed numerically in parentheses after each benchmark in this Part LI.

1. **Communication**Ca process by which information is exchanged and a concept of "meaning" is created and shared between individuals through a common system of symbols, signs, or behavior. Students should be able to communicate clearly, fluently, strategically, technologically, critically, and creatively in society and in a variety of workplaces. This process can best be accomplished through use of the following skills:

- a. reading;
- b. writing;
- c. speaking;
- d. listening;
- e. viewing; and
- f. visually representing.

2. **Problem Solving**Cthe identification of an obstacle or challenge and the subsequent application of knowledge and thinking processes, which include reasoning, decision making, and inquiry in order to reach a solution using multiple pathways, even when no routine path is apparent.

3. **Resource Access and Utilization**Cthe process of identifying, locating, selecting, and using resource tools to help in analyzing, synthesizing, and communicating information. The identification and employment of appropriate tools, techniques, and technologies are essential to all learning processes. These resource tools include:

- a. pen;
- b. pencil and paper;
- c. audio/video materials;

- d. word processors;
- e. computers;
- f. interactive devices;
- g. telecommunication; and

h. other emerging technologies.

4. **Linking and Generating Knowledge**Cthe effective use of cognitive processes to generate and link knowledge across the disciplines and in a variety of contexts. In order to engage in the principles of continual improvement, students must be able to transfer and elaborate on these processes. *Transfer* refers to the ability to apply a strategy or content knowledge effectively in a setting or context other than that in which it was originally learned. *Elaboration* refers to monitoring, adjusting, and expanding strategies into other contexts.

5. **Citizenship**Cthe application of the understanding of the ideals, rights, and responsibilities of active participation in a democratic republic that includes:

- a. working respectfully and productively together for the benefit of the individual and the community;
- b. being accountable for one's own choices and actions and understanding their impact on oneself and others;
- c. knowing one's civil, constitutional, and statutory rights; and
- d. mentoring others to become productive citizens and lifelong learners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Student Standards and Assessments, LR 30:

Chapter 3. Dance

Subchapter A. Creative Expression

§301. Purpose

A. **Focus.** Creative expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

B. **Standard.** Students develop creative expression through the application of knowledge, ideas, communication skills, organizational abilities, and imagination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§303. Benchmarks K-4

A. In grades K-4, students should know and be able to:

D-CE-E1	Use kinesthetic awareness, proper use of space, and the ability to move safely	(1, 2, 5)
D-CE-E2	Explore and demonstrate basic movements and the elements of dance (space, time, and energy)	(1, 2)
D-CE-E3	Recognize and explore dance as a way to create and communicate ideas and feelings	(1, 4)

D-CE-E4	Explore the process of making a dance; improvise to create a dance phrase	(1, 2)
D-CE-E5	Execute improvised and set movement patterns with concentration and focus individually and in groups	(1, 4, 5)
D-CE-E6	Identify relationship among dance, other arts, and disciplines outside the arts	(1, 4)
D-CE-E7	Develop awareness of technical dimensions of dance, such as costumes, performance space, and set design	(2, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§305. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

D-CE-M1	Demonstrate self-monitoring and effective use of space	(2, 5)
D-CE-M2	Use the elements of dance to execute basic movements with increased skill and develop a movement vocabulary	(1, 4)
D-CE-M3	Demonstrate the ability to use dance as a language and means of communication	(1, 4)
D-CE-M4	Use improvisation, choreography, and choreographic forms to sequence movements into dance phrases	(2, 3)
D-CE-M5	Perform informal and formal dance compositions individually and in groups	(1, 4, 5)
D-CE-M6	Understand and express relationships among dance, other arts, and disciplines outside the arts	(1, 4)

D-CE-M7	Engage in individual and collaborative use of technical dimensions of dance and explore how use of current technology can enhance dance ideas	(2, 3, 5)
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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§307. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

D-CE-H1	Incorporate kinesthetic awareness, use of space, and self-evaluation to refine performance skills	(2, 4, 5)
D-CE-H2	Use the elements of dance to develop technical skills and expand or refine movement vocabulary	(1, 4)
D-CE-H3	Utilize dance as an expression of individual ideas and feelings	(1, 4, 5)
D-CE-H4	Incorporate improvisation, choreography, and choreographic forms into dance compositions	(2, 3)
D-CE-H5	Present and evaluate dance compositions designed to display skills and techniques	(1, 2, 4, 5)
D-CE-H6	Present a multi-disciplinary dance project	(1, 2, 4, 5)
D-CE-H7	Manipulate technical dimensions of dance individually and collaboratively	(2, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§309. Creative Expression C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Use kinesthetic awareness, proper use of space and the ability to move safely (1, 2, 5)	Demonstrate self-monitoring and effective use of space (2, 5)	Incorporate kinesthetic awareness, use of space and self-evaluation to refine performance skills (2, 4, 5)
Benchmark 2	Explore and demonstrate basic movements and the elements of dance (space, time, and energy) (1, 2)	Use the elements of dance to execute basic movements with increased skill and develop a movement vocabulary (1, 4)	Use the elements of dance to develop technical skills and expand or refine movement vocabulary (1, 4)
Benchmark 3	Recognize and explore dance as a way to create and communicate ideas and feelings (1, 4)	Demonstrate the ability to use dance as a language and means of communication (1, 4)	Utilize dance as an expression of individual ideas and feelings (1, 4, 5)
Benchmark 4	Explore the process of making a dance; improvise to create a dance phrase (1, 2)	Use improvisation, choreography, and choreographic forms to sequence movements into dance phrases (2, 3)	Incorporate improvisation, choreography and choreographic forms into dance compositions (2, 3)
Benchmark 5	Execute improvised and set movement patterns with concentration and focus individually and in groups (1, 4, 5)	Perform informal and formal dance compositions individually and in groups (1, 4, 5)	Present and evaluate dance compositions designed to display skills and techniques (1, 2, 4, 5)
Benchmark 6	Identify relationships among dance, other arts, and disciplines outside the arts (1, 4)	Understand and express relationships among dance, other arts, and disciplines outside the arts (1, 4)	Present a multi-disciplinary dance project (1, 2, 4, 5)
Benchmark 7	Develop awareness of technical dimensions of dance, such as costumes, performance space, and set design (2, 4)	Engage in individual and collaborative use of technical dimensions of dance and explore how use of current technology can enhance dance ideas (2, 3, 5)	Manipulate technical dimensions of dance individually and collaboratively (2, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter B. Aesthetic Perception

§311. Purpose

A. Focus. The study of aesthetics, or the philosophy of the arts, cultivates the direct experience of the senses and supplies the individual with a structure for perceiving and responding to the arts. A grasp of aesthetics empowers the individual to experience beauty in many forms, to appreciate artistic expression, and to develop insight into the creations and performances of others. By questioning concepts, weighing evidence, and examining intuitive reactions, the individual becomes increasingly discriminating in formulating preferences and conclusions about the values inherent in art. Aesthetic perception promotes creativity, flexible thinking, and the pursuit of excellence.

B. Standard. Students develop aesthetic perception through the knowledge of art forms and respect for their commonalities and differences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§313. Benchmarks K-4

A. In grades K-4, students should know and be able to:

D-AP-E1	Recognize the elements of dance and apply basic dance vocabulary	(1, 4)
D-AP-E2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of dance	(1, 4, 5)
D-AP-E3	Identify and discuss how dance affects thoughts and feelings	(1, 2, 4)
D-AP-E4	Recognize that there are many possibilities and choices available in the process of creating a dance	(3, 4)
D-AP-E5	Develop a basic understanding of the processes of creating, performing, and observing dance	(2, 5)
D-AP-E6	Recognize how dance differs from other forms of human movement and share personal feelings or preferences about dance	(1, 2, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

§319. Aesthetic PerceptionC Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize the elements of dance and apply basic dance vocabulary (1, 4)	Understand the elements of dance and apply expanded dance vocabulary (1, 4)	Understand the elements of dance and apply advanced dance vocabulary (1, 4)
Benchmark 2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of dance (1, 4, 5)	Recognize that concepts of beauty differ from culture to culture and that taste varies from person to person (1, 4, 5)	Distinguish unique characteristics of dance as it reflects concepts of beauty and quality of life in various cultures (1, 4, 5)
Benchmark 3	Identify and discuss how dance affects thoughts and feelings (1, 2, 4)	Describe the sensory, emotional and intellectual impact of works of dance (1, 2, 4)	Analyze and express the impact of dance on intellect and emotions (1, 4, 5)
Benchmark 4	Recognize that there are many possibilities and choices available in the process of creating a dance (3, 4)	Demonstrate awareness of various new ideas, possibilities, options, and situations pertaining to creating dance (1, 4)	Compare and contrast multiple possibilities and options available for artistic expression through dance (1, 4)

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§315. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

D-AP-M1	Understand the elements of dance and apply expanded dance vocabulary	(1, 4)
D-AP-M2	Recognize that concepts of beauty differ from culture to culture and that taste varies from person to person	(1, 4, 5)
D-AP-M3	Describe the sensory, emotional, and intellectual impact of works of dance	(1, 2, 4)
D-AP-M4	Demonstrate awareness of various new ideas, possibilities, options, and situations pertaining to creating dance	(1, 4)
D-AP-M5	Identify and discuss appropriate behaviors for creators, performers, and observers of dance	(1, 4, 5)
D-AP-M6	Discuss the question, "What is dance?" and express intuitive reactions and personal responses to dance	(1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§317. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

D-AP-H1	Understand the elements of dance and apply advanced dance vocabulary	(1, 4)
D-AP-H2	Distinguish unique characteristics of dance as it reflects concepts of beauty and quality of life in various cultures	(1, 4, 5)
D-AP-H3	Analyze and express the impact of dance on intellect, and emotions	(1, 4, 5)
D-AP-H4	Compare and contrast multiple possibilities and options available for artistic expression through dance	(1, 4)
D-AP-H5	Discuss the significance of collaboration and other group dynamics in creating, performing and observing dance	(1, 4, 5)
D-AP-H6	Question/weigh evidence and information, examine intuitive reactions, and articulate personal attitudes toward dance	(1, 2, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Grade Cluster	K-4	5-8	9-12
Benchmark 5	Develop a basic understanding of the processes of creating, performing, and observing dance (2, 5)	Identify and discuss appropriate behaviors for creators, performers, and observers of dance (1, 4, 5)	Discuss the significance of collaboration and other group dynamics in creating, performing, and observing dance (1, 4, 5)
Benchmark 6	Recognize how dance differs from other forms of human movement and share personal feelings or preferences about dance (1, 2, 4)	Discuss the question, "What is dance?" and express intuitive reactions and personal responses to dance (1, 4)	Question/weigh evidence and information, examine intuitive reactions, and articulate personal attitudes toward dance (1, 2, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter C. Historical and Cultural Perspective

§321. Purpose

A. Focus. Historical and cultural perspective is the vehicle for understanding works of art in time and place. The arts survive through times of interruption and neglect; they outlive governments, creeds, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

B. Standard. Students develop historical and cultural perspective by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§323. Benchmarks K-4

A. In grades K-4, students should know and be able to:

D-HP-E1	Recognize and discuss the role of dance in cultural/historical contexts, including celebrations, ceremonies, and special occasions	(1, 4)
D-HP-E2	Recognize basic differences between dance styles and identify styles of dance in various cultures	(1, 3, 4)
D-HP-E3	Recognize great dance works, innovators, and performers who have shaped the history of dance	(1, 4)
D-HP-E4	Recognize careers in dance and identify roles of dancers in various cultures and time periods	(4)
D-HP-E5	Recognize universal themes in dance and how dance communicates a universal language	(1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§325. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

D-HP-M1	Compare the role of dance in various cultures and discuss dance in cultural, historical, and contemporary contexts	(1, 4)
D-HP-M2	Identify differences in styles of dance and distinguish among dance styles from various cultures and time periods	(1, 4)
D-HP-M3	Identify and discuss the influences of great dance works, innovators, and performers who have shaped the history of dance	(1, 4)
D-HP-M4	Identify, describe, and compare contemporary careers and professions in dance	(1, 4, 5)
D-HP-M5	Identify and discuss universal themes exhibited in dance from various cultures	(1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§327. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

D-HP-H1	Explain the art of dance in relation to cultural values and prevailing social, political, and economic conditions	(1, 4, 5)
D-HP-H2	Compare, contrast, and categorize styles of dance representative of various cultures and time periods	(1, 4)
D-HP-H3	Compare and contrast current dance innovators and trends with past innovators and their contributions to dance	(3, 4)
D-HP-H4	Investigate and assess roles, careers, and career opportunities in dance production	(1, 4)
D-HP-H5	Analyze universal themes as exhibited in dance from various cultures	(3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

**§329. Historical and Cultural Perspective
Grade Cluster**

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize and discuss the role of dance in cultural/historical contexts, including celebrations, ceremonies, and special occasions (1, 4)	Compare the role of dance in various cultures and discuss dance in cultural, historical, and contemporary contexts (1, 4)	Explain the art of dance in relation to cultural values and prevailing social, political, and economic conditions (1, 4, 5)
Benchmark 2	Recognize basic differences between dance styles and identify styles of dance in various cultures (1, 3, 4)	Identify differences in styles of dance and distinguish among dance styles from various cultures and time periods (1, 4)	Compare, contrast, and categorize styles of dance representative of various cultures and time periods (1, 4)
Benchmark 3	Recognize great dance works, innovators, and performers who have shaped the history of dance (1, 4)	Identify and discuss the influences of great dance works, innovators, and performers who have shaped the history of dance (1, 4)	Compare and contrast current dance innovators and trends with past innovators and their contributions to dance (3, 4)
Benchmark 4	Recognize careers in dance and identify roles of dancers in various cultures and time periods (4)	Identify, describe, and compare contemporary careers and professions in dance (1, 4, 5)	Investigate and assess roles, careers, and career opportunities in dance production (1, 4)
Benchmark 5	Recognize universal themes in dance and how dance communicates a universal language (1, 4)	Identify and discuss universal themes exhibited in dance from various cultures (1, 4)	Analyze universal themes as exhibited in dance from various cultures (3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter D. Critical Analysis

§331. Purpose

A. Focus. Critical analysis is the process of inquiry associated with an individual's knowledge of the arts. Communication about the arts in a structured way provides the individual with means to describe, analyze, interpret, and make critical, reasoned judgments about the form and content of the arts.

B. Standard. Students make informed verbal and written observations about the arts by developing skills for critical analysis through the study of and exposure to the arts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§333. Benchmarks K-4

A. In grades K-4, students should know and be able to:

D-CA-E1	Observe and identify the basic movements in dance	(3, 4)
D-CA-E2	Identify basic examples of the dance elements in various works of dance	(4)
D-CA-E3	Recognize and discuss the sequencing of movements in dance	(1, 4)
D-CA-E4	Identify the main theme or story idea presented in a dance	(1, 4)
D-CA-E5	Identify and discuss basic ways of changing dance movements to improve a dance	(1, 2, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§335. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

D-CA-M1	Recognize and describe movement content and expression in dance	(1, 4)
D-CA-M2	Identify how elements of dance are used in a work to communicate the choreographic intent	(1, 2, 4)
D-CA-M3	Describe the use of choreographic principles such as unity, contrast, continuity, and climax in dance	(1, 4)
D-CA-M4	Describe the main theme, story idea, or political message conveyed in a dance	(1, 4)
D-CA-M5	Critique works of dance using expanded dance vocabulary	(1, 2, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§337. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

D-CA-H1	Explain the manipulation of movement content and how it influences expression in a dance	(1, 4)
D-CA-H2	Explain how elements of dance communicate the choreographic intent in various works	(1, 2, 4)
D-CA-H3	Apply understanding of choreographic principles and choreographic forms to analyze and explain dance	(1, 4)
D-CA-H4	Describe the social theme conveyed in a dance and how personal experience influences interpretation of dance	(1, 4, 5)
D-CA-H5	Critique works of dance using advanced dance vocabulary	(1, 2, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§339. Critical Analysis C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Observe and identify the basic movements in dance (3, 4)	Recognize and describe movement content and expression in dance (1, 4)	Explain the manipulation of movement content and how it influences expression in a dance (1, 4)
Benchmark 2	Identify basic examples of the dance elements in various works of dance (4)	Identify how elements of dance are used in a work to communicate the choreographic intent (1, 2, 4)	Explain how elements of dance communicate the choreographic intent in various works (1, 2, 4)
Benchmark 3	Recognize and discuss the sequencing of movements in dance (1, 4)	Describe the use of choreographic principles such as unity, contrast, continuity, and climax in dance (1, 4)	Apply understanding of choreographic principles and choreographic forms to analyze and explain dance (1, 4)
Benchmark 4	Identify the main theme or story idea presented in a dance (1, 4)	Describe the main theme, story idea, or political message conveyed in a dance (1, 4)	Describe the social theme conveyed in a dance and how personal experience influences interpretation of dance (1, 4, 5)
Benchmark 5	Identify and discuss basic ways of changing dance movements to improve a dance (1, 2, 4)	Critique works of dance using expanded dance vocabulary (1, 2, 5)	Critique works of dance using advanced dance vocabulary (1, 2, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Chapter 5. Music
Subchapter A. Creative Expression

§501. Purpose

A. Focus. Creative expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

B. Standard. Students develop creative expression through the application of knowledge, ideas, communication skills, organizational abilities, and imagination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§503. Benchmarks K-4

A. In grades K-4, students should know and be able to:

M-CE-E1	Recognize and imitate simple melodies and rhythmic patterns using voice, musical instruments, or other sound sources	(3)
M-CE-E2	Recognize basic notational symbols and express vocabulary that conveys precise musical meanings	(3, 4)
M-CE-E3	Improvise or compose and perform simple musical ideas, such as echoing melody or short rhythmic patterns	(1, 4)
M-CE-E4	Explore and express basic elements of music through voice, musical instruments, electronic technology, or available media	(3)
M-CE-E5	Participate in organized musical activities including singing, playing, and movement	(1, 2, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§505. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

M-CE-M1	Recognize and perform melodic and rhythmic patterns using voice, musical instruments, or other sound sources, both individually and in ensembles	(1, 3, 4)
M-CE-M2	Interpret notational symbols and vocabulary that convey precise musical meanings	(2, 3, 4)
M-CE-M3	Improvise, or compose and perform written music	(1, 4)
M-CE-M4	Recognize and demonstrate elements of music, using voice, musical instruments, electronic technology, or other available media	(3, 4)
M-CE-M5	Perform in organized activities including singing, playing, and movement	(1, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§507. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

M-CE-H1	Create and improvise advanced musical forms using voice, musical instruments, or other sound sources, both individually and in ensembles	(1, 2, 4)
M-CE-H2	Apply with technical accuracy notational symbols and vocabulary that convey precise musical meanings	(2, 3, 4)
M-CE-H3	Improvise, or compose and perform advanced compositions	(1, 4)
M-CE-H4	Interpret and apply elements of music using preferred medium of performance	(3, 4, 5)
M-CE-H5	Perform in musical ensembles using a preferred performance medium	(1, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§509. Creative Expression C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize and imitate simple melodies and rhythmic patterns using voice, musical instruments, or other sound sources (3)	Recognize and perform melodic and rhythmic patterns using voice, musical instruments, or other sound sources, both individually and in ensembles (1, 3, 4)	Create and improvise advanced musical forms using voice, musical instruments, or other sound sources, both individually and in ensembles (1, 2, 4)
Benchmark 2	Recognize basic notational symbols and express vocabulary that conveys precise musical meanings (3, 4)	Interpret notational symbols and vocabulary that convey precise musical meanings (2, 3, 4)	Apply with technical accuracy notational symbols and vocabulary that convey precise musical meanings (2, 3, 4)
Benchmark 3	Improvise or compose and perform simple musical ideas, such as echoing melody or short rhythmic patterns (1, 4)	Improvise or compose and perform written music (1, 4)	Improvise or compose and perform advanced compositions (1, 4)
Benchmark 4	Explore and express basic elements of music through voice, musical instruments, electronic technology, or available media (3)	Recognize and demonstrate elements of music, using voice, musical instruments, electronic technology, or other available media (3, 4)	Interpret and apply elements of music using preferred medium of performance (3, 4, 5)
Benchmark 5	Participate in organized musical activities including singing, playing, and movement (1, 2, 5)	Perform in organized musical activities including singing, playing, and movement (1, 5)	Perform in musical ensembles using preferred performance medium (1, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter B. Aesthetic Perception

§511. Purpose

A. Focus. The study of aesthetics, or the philosophy of the arts, cultivates the direct experience of the senses and supplies the individual with a structure for perceiving and responding to the arts. A grasp of aesthetics empowers the individual to experience beauty in many forms, to appreciate artistic expression, and to develop insight into the creations and performances of others. By questioning concepts, weighing evidence, and examining intuitive reactions, the individual becomes increasingly discriminating in formulating preferences and conclusions about the values inherent in art. Aesthetic perception promotes creativity, flexible thinking, and the pursuit of excellence.

B. Standard. Students develop aesthetic perception through the knowledge of art forms and respect for their commonalities and differences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§513. Benchmarks K-4

A. In grades K-4, students should know and be able to:

M-AP-E1	Understand and apply basic music vocabulary to describe aesthetic qualities of musical compositions	(1, 4)
M-AP-E2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of music	(1, 4, 5)

M-AP-E3	Demonstrate awareness of where and how music is used in daily life and within the community	(1, 4, 5)
M-AP-E4	Recognize that there are many possibilities and choices available in the creative processes of music	(4)
M-AP-E5	Participate in guided inquiry into the basic question, "What is music?" and share personal feelings or preferences about music	(1, 5)
M-AP-E6	Recognize and demonstrate behavior appropriate for various musical environments	(4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§515. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

M-AP-M1	Understand and apply expanded music vocabulary to describe aesthetic qualities of musical compositions	(1, 4)
M-AP-M2	Recognize that concepts of beauty differ by culture and that taste varies from person to person	(1, 4, 5)
M-AP-M3	Describe the emotional and intellectual impact of music in various contexts	(1, 4, 5)
M-AP-M4	Demonstrate awareness of various traditional and technological options pertaining to creative processes in music	(1, 4)
M-AP-M5	Discuss the question, "What is music?" and express intuitive reactions and personal responses to various works	(1, 4)

M-AP-M6	Demonstrate and discuss behavior appropriate for various musical environments	(1, 4, 5)
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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§517. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

M-AP-H1	Understand and apply advanced music vocabulary to describe aesthetic qualities of musical compositions	(1, 4)
M-AP-H2	Distinguish unique characteristics of music as it reflects concepts of beauty and quality of life in various cultures	(1, 4, 5)

M-AP-H3	Analyze and express the impact of music on intellect and emotions	(1, 4, 5)
M-AP-H4	Compare and contrast traditional and technological options available for artistic expression in music	(1, 4)
M-AP-H5	Question/weigh evidence and information, examine intuitive reactions, and articulate personal attitudes toward musical works	(1, 2, 5)
M-AP-H6	Evaluate and discuss appropriateness of behavior for different types of musical environments	(2, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§519. Aesthetic PerceptionC Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Understand and apply basic music vocabulary to describe aesthetic qualities of musical compositions (1, 4)	Understand and apply expanded music vocabulary to describe aesthetic qualities of musical compositions (1, 4)	Understand and apply advanced music vocabulary to describe aesthetic qualities of musical compositions (1, 4)
Benchmark 2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of music (1, 4, 5)	Recognize that concepts of beauty differ by culture and that taste varies from person to person (1, 4, 5)	Distinguish unique characteristics of music as it reflects concepts of beauty and quality of life in various cultures (1, 4, 5)
Benchmark 3	Demonstrate awareness of where and how music is used in daily life and within the community (1, 4, 5)	Describe the emotional and intellectual impact of music in various contexts (1, 4, 5)	Analyze and express the impact of music on intellect and emotions (1, 4, 5)
Benchmark 4	Recognize that there are many possibilities and choices available in the creative processes of music (4)	Demonstrate awareness of various traditional and technological options pertaining to creative processes in music (1, 4)	Compare and contrast traditional and technological options available for artistic expression in music (1, 4)
Benchmark 5	Participate in guided inquiry into the basic question "What is music?" and share personal feelings or preferences about music (1, 5)	Discuss the question "What is music?" and express intuitive reactions and personal responses to various works (1, 4)	Question/weigh evidence and information, examine intuitive reactions, and articulate personal attitudes toward musical works (1, 2, 5)
Benchmark 6	Recognize and demonstrate behavior appropriate for various musical environments (4, 5)	Demonstrate and discuss behavior appropriate for various musical environments (1, 4, 5)	Evaluate and discuss appropriateness of behavior for different types of musical environments (2, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter C. Historical and Cultural Perspective

§521. Purpose

A. Focus. Historical and cultural perspective is the vehicle for understanding works of art in time and place. The arts survive through times of interruption and neglect; they outlive governments, creeds, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

B. Standard. Students develop historical and cultural perspective by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§523. Benchmarks K-4

A. In grades K-4, students should know and be able to:

M-HP-E1	Recognize musical styles representative of various cultures	(4)
M-HP-E2	Recognize and discuss the function of music within historical and cultural contexts, including celebrations, ceremonies, and special occasions	(1, 4)
M-HP-E3	Recognize families of musical instruments and instruments of various cultures	(4)
M-HP-E4	Recognize professions in music and identify the roles of musicians in various cultures	(4)
M-HP-E5	Recognize great composers and their most significant musical works	(4)

M-HP-E6	Recognize universal themes in music and how music communicates a universal language	(1, 4)
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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§525. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

M-HP-M1	Identify distinguishing characteristics of musical styles representative of various historical periods and cultures	(1, 2, 4)
M-HP-M2	Compare and contrast the function of music within historical and cultural contexts, such as celebrations, ceremonies, and events	(1, 4, 5)
M-HP-M3	Identify specific types and uses of musical instruments in various cultures	(4)
M-HP-M4	Describe careers for musicians and compare the roles of musicians in various cultures	(1, 4, 5)
M-HP-M5	Identify major works of great composers and recognize achievements of prominent musicians	(4, 5)
M-HP-M6	Identify and discuss ways in which universal themes are revealed and developed in the music of diverse cultures and time periods	(1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§527. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

M-HP-H1	Compare and contrast musical styles representative of various historical periods and cultures	(1, 2, 4)
M-HP-H2	Analyze the function of music as it fulfills societal needs within historical and cultural contexts	(1, 4, 5)
M-HP-H3	Compare and contrast types and uses of musical instruments in various cultures	(4)
M-HP-H4	Investigate and assess roles, careers, and career opportunities for musicians	(3, 4)
M-HP-H5	Identify prominent musicians of various cultures and compare their lives, careers, works, and influence	(1, 4)
M-HP-H6	Analyze the universality of musical themes across cultures and time periods	(1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§529. Historical and Cultural Perspective C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize musical styles representative of various cultures (4)	Identify distinguishing characteristics of musical styles representative of various historical periods and cultures (1, 2, 4)	Compare and contrast musical styles representative of various historical periods and cultures (1, 2, 4)
Benchmark 2	Recognize and discuss the function of music within historical and cultural contexts, including celebrations, ceremonies, and special occasions (1, 4)	Compare and contrast the function of music within historical and cultural contexts, such as celebrations, ceremonies, and events (1, 4, 5)	Analyze the function of music as it fulfills societal needs within historical and cultural contexts (1, 4, 5)
Benchmark 3	Recognize families of musical instruments and instruments of various cultures (4)	Identify specific types and uses of musical instruments in various cultures (4)	Compare and contrast types and uses of musical instruments in various cultures (4)
Benchmark 4	Recognize professions in music and identify the roles of musicians in various cultures (4)	Describe careers for musicians and compare the roles of musicians in various cultures (1, 4, 5)	Investigate and assess roles, careers, and career opportunities for musicians (3, 4)
Benchmark 5	Recognize great composers and their most significant musical works (4)	Identify major works of great composers and recognize achievements of prominent musicians (4, 5)	Identify prominent musicians of various cultures and compare their lives, careers, works, and influence (1, 4)
Benchmark 6	Recognize universal themes in music and how music communicates a universal language (1, 4)	Identify and discuss ways in which universal themes are revealed and developed in the music of diverse cultures and time periods (1, 4)	Analyze the universality of musical themes across cultures and time periods (1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter D. Critical Analysis

§531. Purpose

A. Focus. Critical analysis is the process of inquiry associated with an individual's knowledge of the arts. Communication about the arts in a structured way provides the individual with means to describe, analyze, interpret, and

make critical, reasoned judgments about the form and content of the arts.

B. Standard. Students make informed verbal and written observations about the arts by developing skills for critical analysis through the study of and exposure to the arts.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§533. Benchmarks K-4

A. In grades K-4, students should know and be able to:

M-CA-E1	Identify the music form (e.g., AB, ABA) and describe in simple terms how the elements of music are used in various works	(1, 4)
M-CA-E2	Identify simple music events (e.g., dynamic change, meter change, same/different sections) while listening to a work	(2, 4)
M-CA-E3	Recognize characteristics of music that make a musical selection appropriate for a particular purpose	(4)
M-CA-E4	Identify relationships among music, other arts, and disciplines outside the arts	(1, 4)
M-CA-E5	Devise criteria for evaluating music and music performances, and express opinions using basic music vocabulary	(1, 2, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§535. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

M-CA-M1	Identify the music form (e.g., round, canon) and explain how the elements of music are used in works representing various genres/styles	(4)
M-CA-M2	Identify and describe music events (e.g., entry of an instrument, meter change, return of refrain) while listening to a work	(2, 4)
M-CA-M3	Describe or explain characteristics of music in regard to suitability of musical selections for specific purposes	(1, 4)

§539. Critical Analysis C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Identify the music form (e.g., AB, ABA) and describe in simple terms how the elements of music are used in various works (1, 4)	Identify the music form (e.g., round, canon) and explain how the elements of music are used in works representing various genres/styles (4)	Distinguish and analyze elements of music and expressive devices as used in musical works representing diverse genres/styles (1, 2, 4)
Benchmark 2	Identify simple music events (e.g., dynamic change, meter change, same/different sections) while listening to a work (2, 4)	Identify and describe music events (e.g., entry of an instrument, meter change, return of refrain) while listening to a work (2, 4)	Identify and explain compositional devices and techniques used to provide unity and variety and tension and release in a musical work (1, 2, 4)
Benchmark 3	Recognize characteristics of music that make a musical selection appropriate for a particular purpose (4)	Describe or explain characteristics of music in regard to suitability of musical selections for specific purposes (1, 4)	Analyze the appropriateness of music choices as they relate to purpose (2, 4, 5)
Benchmark 4	Identify relationships among music, other arts, and disciplines outside the arts (1, 4)	Describe relationships among music, other arts, and disciplines outside the arts (1, 4)	Explain commonalities and differences among music, other arts, and disciplines outside the arts (1, 2, 4)
Benchmark 5	Devise criteria for evaluating music and music performances, and express opinions using basic music vocabulary (1, 2, 4)	Use appropriate criteria and expanded music vocabulary to evaluate the quality of music and performances (1, 2, 4)	Use appropriate criteria and advanced music vocabulary to critique the quality of music and performances (1, 2, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

M-CA-M4	Describe relationships among music, other arts, and disciplines outside the arts	(1, 4)
M-CA-M5	Use appropriate criteria and expanded music vocabulary to evaluate the quality of music and performances	(1, 2, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§537. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

M-CA-H1	Distinguish and analyze elements of music and expressive devices as used in musical works representing diverse genres/styles	(1, 2, 4,)
M-CA-H2	Identify and explain compositional devices and techniques used to provide unity and variety and tension and release in a musical work	(1, 2, 4)
M-CA-H3	Analyze the appropriateness of music choices as they relate to purpose	(2, 4, 5)
M-CA-H4	Explain commonalities and differences among music, other arts, and disciplines outside the arts	(1, 2, 4)
M-CA-H5	Use appropriate criteria and advanced music vocabulary to critique the quality of music and performances	(1, 2, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Chapter 7. Theatre Arts
Subchapter A. Creative Expression

§701. Purpose

A. Focus. Creative Expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

B. Standard. Students develop creative expression through the application of knowledge, ideas, communication skills, organizational abilities, and imagination.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§703. Benchmarks K-4

A. In grades K-4, students should know and be able to:

TH-CE-E1	Explore and express various emotions in interpersonal settings	(1, 5)
TH-CE-E2	Interact in group situations and show differentiation of roles through experimentation and role playing	(1, 2, 5)
TH-CE-E3	Exhibit physical and emotional dimensions of characterization through experimentation and role playing	(2, 5)
TH-CE-E4	Create story lines for improvisation	(2, 3, 4)
TH-CE-E5	Identify and express differences among reality, fantasy, role playing, and media representation	(2, 3, 4)
TH-CE-E6	Develop awareness of technical dimensions of the dramatic form, such as theatrical space, scenery, costuming, and make-up	(3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§705. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

TH-CE-M1	Demonstrate self-expression and various emotions individually and in groups	(1, 5)
TH-CE-M2	Demonstrate role playing individually and in interpersonal situations	(1, 5)
TH-CE-M3	Demonstrate physical and emotional traits appropriate to a variety of roles and characters	(2, 4)
TH-CE-M4	Create improvisations and scripted scenes based on personal experience, imagination, literature, and history	(1, 2, 3)
TH-CE-M5	Compare/contrast and demonstrate various performance methods and styles	(1, 2, 4)
TH-CE-M6	Engage in individual and collaborative use of technical dimensions of the dramatic form such as theatrical space, scenery, set design, costuming, and make-up	(1, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S.17.24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§707. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

TH-CE-H1	Develop intrapersonal skills as an individual and as a performer	(1, 5)
TH-CE-H2	Assume and sustain various roles in group interactions	(1, 4, 5)
TH-CE-H3	Develop characterization in group performances through interpretation of psychological motivation	(2, 3, 5)
TH-CE-H4	Write scripts for classroom, stage, and media performances, using various forms of technology	(1, 3, 4)
TH-CE-H5	Perform using specific methods, styles, and acting techniques from various cultures and time periods	(1, 2, 3, 4)
TH-CE-H6	Manipulate technical dimensions of the dramatic form, such as set design/construction, costuming, make-up, properties, lights, sound, and multimedia	(1, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§709. Creative Expression C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Explore and express various emotions in interpersonal settings (1, 5)	Demonstrate self-expression and various emotions individually and in groups (1, 5)	Develop intrapersonal skills as an individual and as a performer (1, 5)
Benchmark 2	Interact in group situations and show differentiation of roles through experimentation and role playing (1, 2, 5)	Demonstrate role playing individually and in interpersonal situations (1, 5)	Assume and sustain various roles in group interactions (1, 4, 5)
Benchmark 3	Exhibit physical and emotional dimensions of characterization through experimentation and role playing (2, 5)	Demonstrate physical and emotional traits appropriate to a variety of roles and characters (2, 4)	Develop characterization in group performances through interpretation of psychological motivation (2, 3, 5)
Benchmark 4	Create story lines for improvisation (2, 3, 4)	Create improvisations and scripted scenes based on personal experience, imagination, literature, and history (1, 2, 3)	Write scripts for classroom, stage, and media performances, using various forms of technology (1, 3, 4)

Grade Cluster	K-4	5-8	9-12
Benchmark 5	Identify and express differences among reality, fantasy, role playing, and media productions (2, 3, 4)	Compare/contrast and demonstrate various performance methods and styles (1, 2, 4)	Perform using specific methods, styles, and acting techniques from various cultures and time periods (1, 2, 3, 4)
Benchmark 6	Develop awareness of technical dimensions of the dramatic form, such as theatrical space, scenery, costuming, and make-up (3, 4)	Engage in individual and collaborative use of technical dimensions of the dramatic form such as the atrical space, scenery, set design, costuming, and make-up (1, 4, 5)	Manipulate technical dimensions of the dramatic form, such as set design/construction, costuming, make-up, properties, lights, sound, and multimedia (1, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter B. Aesthetic Perception

§711. Purpose

A. Focus. The study of aesthetics, or the philosophy of the arts, cultivates the direct experience of the senses and supplies the individual with a structure for perceiving and responding to the arts. A grasp of aesthetics empowers the individual to experience beauty in many forms, to appreciate artistic expression, and to develop insight into the creations and performances of others. By questioning concepts, weighing evidence, and examining intuitive reactions, the individual becomes increasingly discriminating in formulating preferences and conclusions about the values inherent in art. Aesthetic perception promotes creativity, flexible thinking, and the pursuit of excellence.

B. Standard. Students develop aesthetic perception through the knowledge of art forms and respect for their commonalities and differences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§713. Benchmarks K-4

A. In grades K-4, students should know and be able to:

TH-AP-E1	Understand and use basic theatre arts vocabulary, including language for describing theatre in various cultures/time periods	(1)
TH-AP-E2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of theatre arts	(1, 4, 5)
TH-AP-E3	Develop a basic understanding of the processes of creating, performing, and observing theatre	(2, 5)
TH-AP-E4	Recognize that there are many possibilities and choices in the creative processes for theatre arts	(2, 4)
TH-AP-E5	Identify and discuss how works of theatre and dramatic media affect thoughts and feelings	(1, 2)
TH-AP-E6	Share personal feelings or preferences about theatre and other dramatic works	(1)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§715. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

TH-AP-M1	Understand and use expanded theatre arts vocabulary, including terms related to theatrical periods, environments, situations, and roles	(1, 4)
TH-AP-M2	Recognize that concepts of beauty differ from culture to culture and that taste varies from person to person	(1, 4, 5)
TH-AP-M3	Identify and discuss appropriate behaviors for creators, performers, and observers of theatre	(1, 2, 5)
TH-AP-M4	Demonstrate awareness of various new ideas, possibilities, options, and situations pertaining to theatre arts	(1, 2, 4)
TH-AP-M5	Describe the emotional and intellectual impact of theatrical works and dramatic performances	(1, 2)
TH-AP-M6	Express intuitive reactions and personal responses to theatre and other dramatic works	(1, 2, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§717. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

TH-AP-H1	Use advanced theatre arts vocabulary and apply cultural/historical information in discussing scripted scenes, sets, and period costumes	(1, 2, 4)
TH-AP-H2	Distinguish unique characteristics of theatre as it reflects concepts of beauty and quality of life in various cultures	(1, 4, 5)
TH-AP-H3	Explain the significance of collaboration and evaluate group dynamics in creating, performing, and observing theatre	(1, 2, 5)
TH-AP-H4	Compare and contrast multiple possibilities and options available for artistic expression in theatre arts	(1, 4)
TH-AP-H5	Analyze and explain the impact of theatrical works and dramatic performances on intellect and emotions	(1, 2, 4)
TH-AP-H6	Examine intuitive reactions and articulate personal attitudes toward theatre and other dramatic works	(1, 2, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§719. Aesthetic PerceptionC Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Understand and use basic theatre arts vocabulary, including language for describing theatre in various cultures/time periods (1)	Understand and use expanded theatre arts vocabulary, including terms related to theatrical periods, environments, situations, and roles (1, 4)	Use advanced theatre arts vocabulary and apply cultural/historical information in discussing scripted scenes, sets, and period costumes (1, 2, 4)
Benchmark 2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of theatre arts (1, 4, 5)	Recognize that concepts of beauty differ from culture to culture and that taste varies from person to person (1, 4, 5)	Distinguish unique characteristics of theatre as it reflects concepts of beauty and quality of life in various cultures (1, 4, 5)
Benchmark 3	Develop a basic understanding of the processes of creating, performing, and observing theatre (2, 5)	Identify and discuss appropriate behaviors for creators, performers, and observers of theatre (1, 2, 5)	Explain the significance of collaboration and evaluate group dynamics in creating, performing, and observing theatre (1, 2, 5)
Benchmark 4	Recognize that there are many possibilities and choices in the creative processes for theatre arts (2, 4)	Demonstrate awareness of various new ideas, possibilities, options, and situations pertaining to theatre arts (1, 2, 4)	Compare and contrast multiple possibilities and options available for artistic expression in theatre arts (1, 4)
Benchmark 5	Identify and discuss how works of theatre and dramatic media affect thoughts and feelings (1, 2)	Describe the emotional and intellectual impact of theatrical works and dramatic performances (1, 2)	Analyze and explain the impact of theatrical works and dramatic performances on intellect and emotions (1, 2)
Benchmark 6	Share personal feelings or preferences about theatre and other dramatic works (1)	Discuss intuitive reactions and personal responses to theatre and other dramatic works (1, 2, 4)	Examine intuitive reactions and articulate personal attitudes toward theatre and other dramatic works (1, 2, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter C. Historical and Cultural Perspective

§721. Purpose

A. Focus. Historical and cultural perspective is the vehicle for understanding works of art in time and place. The arts survive through times of interruption and neglect; they outlive governments, creeds, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

B. Standard. Students develop historical and cultural perspective by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§723. Benchmarks K-4

A. In grades K-4, students should know and be able to:

TH-HP-E1	Recognize basic types and forms of theatre and dramatic media (film, television, and electronic media)	(2, 3)
TH-HP-E2	Recognize cultural differences in theatre productions and performances	(2)
TH-HP-E3	Recall and recognize characters and situations in literature and dramatic media from the past and present	(4)
TH-HP-E4	Recognize universal characters and situations in stories and dramas of various cultures and how theatre reflects life	(2, 4)

TH-HP-E5	Recognize careers in theatre arts and identify roles of theatre artists in various cultures and time periods	(4)
TH-HP-E6	Recognize great theatrical works and great playwrights who have shaped the history of theatre	(4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§725. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

TH-HP-M1	Describe types, forms, and patterns in theatre and dramatic media (film, television, and electronic media)	(1, 3)
TH-HP-M2	Identify differences in theatre across cultures and how artistic choices and artistic expression reflect cultural values	(1, 2, 4)
TH-HP-M3	Identify and describe characters and situations in literature and dramatic media from the past and present	(1, 4)
TH-HP-M4	Identify and discuss ways in which themes are revealed and developed in dramas of various cultures and time periods	(1, 4)
TH-HP-M5	Describe and compare careers in theatre arts and roles of theatre artists in various cultures and time periods	(1, 4, 5)
TH-HP-M6	Identify major works of great playwrights and recognize contributions of prominent theatre artists	(3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§727. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

TH-HP-H1	Compare and contrast types, forms, methods, patterns, and trends in theatre, film, television, and electronic media	(2, 3)
TH-HP-H2	Analyze the form, content, and style of theatrical works from cultural and historical perspectives	(1, 2, 4)
TH-HP-H3	Demonstrate knowledge of dramatic literature, describing characters and situations in historical and cultural contexts	(1, 4)

TH-HP-H4	Analyze the universality of dramatic themes across cultures and historical periods and how theatre can reveal universal concepts	(4)
TH-HP-H5	Investigate and assess roles, careers, and career opportunities in theatre arts	(2, 3)
TH-HP-H6	Identify representative theatre artists of various cultures and compare their lives, works, and influence	(3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

**§729. Historical and Cultural Perspective
Grade Cluster**

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize basic types and forms of theatre and dramatic media (film, television, and electronic media) (2, 3)	Describe types, forms, and patterns in theatre and dramatic media (film, television, and electronic media) (1, 3)	Compare and contrast types, forms, methods, patterns, and trends in theatre, film, television, and electronic media (2, 3)
Benchmark 2	Recognize cultural differences in theatre productions and performances (2)	Identify differences in theatre across cultures and how artistic choices and artistic expression reflect cultural values (1, 2, 4)	Analyze the form, content, and style of theatrical works from cultural and historical perspectives (1, 2, 4)
Benchmark 3	Recall and recognize characters and situations in literature and dramatic media from the past and present (4)	Identify and describe characters and situations in literature and dramatic media from the past and present (1, 4)	Demonstrate knowledge of dramatic literature, describing characters and situations in historical and cultural contexts (1, 4)
Benchmark 4	Recognize universal characters and situations in stories and dramas of various cultures and how theatre reflects life (2, 4)	Identify and discuss ways in which universal themes are revealed and developed in dramas of various cultures and time periods (1, 4)	Analyze the universality of dramatic themes across cultures and historical periods and how theatre can reveal universal concepts (4)
Benchmark 5	Recognize careers in theatre arts and identify roles of theatre artists in various cultures and time periods (4)	Describe and compare careers in theatre arts and roles of theatre artists in various cultures and time periods (1, 4, 5)	Investigate and assess roles, careers, and career opportunities in theatre arts (2, 3)
Benchmark 6	Recognize great theatrical works and great playwrights who have shaped the history of theatre (4)	Identify major works of great playwrights and recognize contributions of prominent theatre artists (3, 4)	Identify representative theatre artists of various cultures and compare their lives, works, and influence (3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter D. Critical Analysis

§731. Purpose

A. Focus. Critical analysis is the process of inquiry associated with an individual's knowledge of the arts. Communication about the arts in a structured way provides the individual with means to describe, analyze, interpret, and make critical, reasoned judgments about the form and content of the arts.

B. Standard. Students make informed verbal and written observations about the arts by developing the skills for critical analysis through study of and exposure to the arts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§733. Benchmarks K-4

A. In grades K-4, students should know and be able to:

TH-CA-E1	Describe in simple terms how voice, language, and technical elements are used in works of theatre and other dramatic media	(1, 2)
TH-CA-E2	Identify motivations, personality traits, and responses to emotional experiences in characters portrayed in dramatic literature and media	(2)
TH-CA-E3	Identify and discuss the theme, message, or story idea conveyed in a dramatic work	(1, 2)
TH-CA-E4	Use basic theatre arts vocabulary to express and explain opinions about scripts and performances	(1)
TH-CA-E5	Identify relationships among theatre arts, other arts, and disciplines outside the arts	(1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§735. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

TH-CA-M1	Explain how elements of theatre and principles of communication are used in works created for the stage and other dramatic media	(1, 2)
TH-CA-M2	Analyze descriptions, dialogues, and actions to explain character traits, personality, motivations, emotional perceptions, and ethical choices	(2, 5)
TH-CA-M3	Interpret and discuss the theme or social/political message conveyed in a dramatic work	(1, 5)
TH-CA-M4	Use appropriate criteria and expanded theatre arts vocabulary to critique scripts, performances and productions	(1, 2)
TH-CA-M5	Describe relationships among theatre arts, other arts, and disciplines outside the arts	(1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§737. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

TH-CA-H1	Analyze how elements of theatre and principles of communication are used to achieve specific effects in theatre and other media productions	(1, 2)
TH-CA-H2	Analyze emotional and social dimensions of characterization and explain character transformations and relationships	(2, 5)
TH-CA-H3	Construct social meaning from dramatic works with reference to theme, purpose, point of view, and current issues	(2, 4, 5)
TH-CA-H4	Use appropriate criteria and advanced theatre arts vocabulary to critique scripts, performances, and productions	(1, 2)
TH-CA-H5	Explain relationships among theatre arts, other arts, and disciplines outside the arts	(1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§739. Critical Analysis C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Describe in simple terms how voice, language, and technical elements are used in works of theatre and other dramatic media (1, 2)	Explain how elements of theatre and principles of communication are used in works created for the stage and other dramatic media (1, 2)	Analyze how elements of theatre and principles of communication are used to achieve specific effects in theatre and other media productions (1, 2)
Benchmark 2	Identify motivations, personality traits, and responses to emotional experiences in characters portrayed in dramatic literature and media (2)	Analyze descriptions, dialogues, and actions to explain character traits, personality, motivations, emotional perceptions, and ethical choices (2, 5)	Analyze emotional and social dimensions of characterization and explain character transformations and relationships (2, 5)
Benchmark 3	Identify and discuss the theme, message, or story idea conveyed in a dramatic work (1, 2)	Interpret and discuss the theme or social/political message conveyed in a dramatic work (1, 5)	Construct social meaning from dramatic works with reference to theme, purpose, point of view, and current issues (2, 4, 5)
Benchmark 4	Use basic theatre arts vocabulary to express and explain opinions about scripts and performances (1)	Use appropriate criteria and expanded theatre arts vocabulary to critique scripts, performances and productions (1, 2)	Use appropriate criteria and advanced theatre arts vocabulary to critique scripts, performances, and productions (1, 2)
Benchmark 5	Identify relationships among theatre arts, other arts, and disciplines outside the arts (1, 4)	Describe relationships among theatre arts, other arts, and disciplines outside the arts (1, 4)	Explain relationships among theatre arts, other arts, and disciplines outside the arts (1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Chapter 9. Visual Arts

Subchapter A. Creative Expression

§901. Purpose

A. Focus. Creative expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

B. Standard. Students develop creative expression through the application of knowledge, ideas, communication skills, organizational abilities, and imagination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§903. Benchmarks K-4

A. In grades K-4, students should know and be able to:

VA-CE-E1	Explore and identify imagery from a variety of sources and create visual representations	(2, 3)
VA-CE-E2	Explore and discuss techniques and technologies for visual expression and communication	(1, 2, 3)

VA-CE-E3	Use art vocabulary and the elements and principles of design to convey the language of art (create and discuss own artwork)	(1, 2, 3)
VA-CE-E4	Experiment to create various art forms, including art forms from other cultures	(2, 3, 4)
VA-CE-E5	Draw on imagination, individual experience, and group activities to generate ideas for visual expression	(1, 4, 5)
VA-CE-E6	Identify relationships among visual arts, other arts, and disciplines outside the arts	(1, 4)
VA-CE-E7	Maintain a sketchbook or journal, or develop a portfolio	(1, 2, 3)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§905. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

VA-CE-M1	Demonstrate art methods and techniques in visual representations based on research of imagery	(2, 3)
VA-CE-M2	Select and apply media techniques, and technology to visually express and communicate	(1, 2, 3)
VA-CE-M3	Use the elements and principles of design and art vocabulary to visually express and describe individual ideas	(1, 2)
VA-CE-M4	Develop skills in creating various art forms, including art forms from other cultures	(2, 3, 4)
VA-CE-M5	Produce ideas for art productions while engaging in individual and group activities	(1, 2, 5)

VA-CE-M6	Understand and visually express relationships among visual arts, other arts, and disciplines outside the arts	(1, 2, 4)
VA-CE-M7	Maintain a sketchbook or journal and develop a portfolio	(1, 2, 3)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§907. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

VA-CE-H1	Produce works of art that successfully convey a central theme based on imagery, ideas, feelings, and memories	(1, 2, 3)
VA-CE-H2	Apply a variety of media techniques, technologies, and processes for visual expression and communication	(1, 2, 3)
VA-CE-H3	Use the elements and principles of design for individual expression while exploring compositional problems	(1, 2)
VA-CE-H4	Produce a visual representation of ideas derived from the study of various cultures and art forms	(2, 3, 4)
VA-CE-H5	Produce imaginative works of art generated from individual and group ideas	(1, 2, 5)
VA-CE-H6	Produce works of art that describe and connect art with other disciplines	(1, 2, 4)
VA-CE-H7	Maintain a sketchbook or journal and develop a portfolio	(1, 2, 3)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§909. Creative Expression C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Explore and identify imagery from a variety of sources and create visual representations (2, 3)	Demonstrate art methods and techniques in visual representations based on research of imagery (2, 3)	Produce works of art that successfully convey a central theme based on imagery, ideas, feelings, and memories (1, 2, 3)
Benchmark 2	Explore and discuss techniques and technologies for visual expression and communication (1, 2, 3)	Select and apply media, techniques, and technology to visually express and communicate (1, 2, 3)	Apply a variety of media techniques, technologies, and processes for visual expression and communication (1, 2, 3)
Benchmark 3	Use art vocabulary and the elements and principles of design to convey the language of art (create and discuss own artwork) (1, 2, 3)	Use the elements and principles of design and art vocabulary to visually express and describe individual ideas (1, 2)	Use the elements and principles of design for individual expression while exploring compositional problems (1, 2)
Benchmark 4	Experiment to create various art forms, including art forms from other cultures (2, 3, 4)	Develop skills in creating various art forms, including art forms from other cultures (2, 3, 4)	Produce a visual representation of ideas derived through the study of various cultures and art forms (2, 3, 4)
Benchmark 5	Draw on imagination, individual experience, and group activities to generate ideas for visual expression (1, 4, 5)	Produce ideas for art productions while engaging in individual and group activities (1, 2, 5)	Produce imaginative works of art generated from individual and group ideas (1, 2, 5)
Benchmark 6	Identify relationships among visual arts, other arts, and disciplines outside the arts (1, 4)	Understand and visually express relationships among visual arts, other arts, and disciplines outside the arts (1, 2, 4)	Produce works of art that describe and connect art with other disciplines (1, 2, 4)
Benchmark 7	Maintain a sketchbook or journal, or develop a portfolio (1, 2, 3)	Maintain a sketchbook or journal and develop a portfolio (1, 2, 3)	Maintain a sketchbook or journal and develop a portfolio (1, 2, 3)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter B. Aesthetic Perception

§911. Purpose

A. Focus. The study of aesthetics, or the philosophy of the arts, cultivates the direct experience of the senses and supplies the individual with a structure for perceiving and responding to the arts. A grasp of aesthetics empowers the individual to experience beauty in many forms, to appreciate artistic expression, and to develop insight into the creations and performances of others. By questioning concepts, weighing evidence, and examining intuitive reactions, the individual becomes increasingly discriminating in formulating preferences and conclusions about the values inherent in art. Aesthetic perception promotes creativity, flexible thinking, and the pursuit of excellence.

B. Standard. Students develop aesthetic perception through the knowledge of art forms and respect for their commonalities and differences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§913. Benchmarks K-4

A. In grades K-4, students should know and be able to:

VA-AP-E1	Use elements and principles of design and basic art vocabulary for expressing responses to the work of others	(1, 4, 5)
VA-AP-E2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of visual arts	(1, 4, 5)
VA-AP-E3	Explore the beauty in nature and discern images and sensory qualities found in nature and art	(1, 2)
VA-AP-E4	Recognize that there are many possibilities and choices in the processes for designing and producing visual arts	(2, 3, 4)
VA-AP-E5	Participate in guided inquiry into the basic question, "What is art?" and share personal feelings or preferences about various works	(1, 2, 4)
VA-AP-E6	Identify where and how the visual arts are used in daily life and in the community	(1, 2, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§919. Aesthetic PerceptionC Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Use elements and principles of design and basic art vocabulary for expressing responses to the work of others (1, 4, 5)	Use elements and principles of design and expanded art vocabulary for responding to the aesthetic qualities of various works (1, 4)	Use advanced art/design vocabulary for responding to the aesthetic qualities of various works (1, 4)
Benchmark 2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of visual arts (1, 4, 5)	Recognize that concepts of beauty differ by culture and that taste varies from person to person (1, 4, 5)	Distinguish unique characteristics of art as it reflects concepts of beauty and quality of life in various cultures (1, 4, 5)

§915. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

VA-AP-M1	Use elements and principles of design and expanded art vocabulary for responding to the aesthetic qualities of various works	(1, 4)
VA-AP-M2	Recognize that concepts of beauty differ by culture and that taste varies from person to person	(1, 4, 5)
VA-AP-M3	Perceive the aesthetic value and influence of organic forms and the natural environment as reflected in works of art	(1, 2, 4)
VA-AP-M4	Demonstrate awareness of various new ideas, possibilities, options, and situations pertaining to the art world	(1, 4)
VA-AP-M5	Discuss the question "What is art?" and express intuitive reactions and personal responses to various works	(1, 4)
VA-AP-M6	Describe the use and value of the visual arts in daily life, the workplace, and the community	(1, 2, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§917. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

VA-AP-H1	Use advanced art/design vocabulary for responding to the aesthetic qualities of various works	(1, 4)
VA-AP-H2	Distinguish unique characteristics of art as it reflects concepts of beauty and quality of life in various cultures	(1, 4, 5)
VA-AP-H3	Use analogies, metaphors, and other descriptors to describe interrelationships in works of art and nature	(1, 2, 4)
VA-AP-H4	Compare and contrast multiple possibilities and options available for artistic expression	(1, 4)
VA-AP-H5	Question/weigh evidence and information, examine intuitive reactions, and articulate personal attitudes toward visual works	(1, 2, 5)
VA-AP-H6	Integrate knowledge of the visual arts in the total environment to understand the arts within a community	(2, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Grade Cluster	K-4	5-8	9-12
Benchmark 3	Explore the beauty in nature and discern images and sensory qualities found in nature and art (1, 2)	Perceive the aesthetic value and influence of organic forms and the natural environment as reflected in works of art (1, 2, 4)	Use analogies, metaphors, and other descriptors to describe interrelationships in works of art and nature (1, 2, 4)
Benchmark 4	Recognize that there are many possibilities and choices in the processes for designing and producing visual arts (2, 3, 4)	Demonstrate awareness of various new ideas, possibilities, options, and situations pertaining to the art world (1, 4)	Compare and contrast multiple possibilities and options available for artistic expression (1, 4)
Benchmark 5	Participate in guided inquiry into the basic question "What is art?" and share personal feelings or preferences about various works (1, 2, 4)	Discuss the question "What is art?" and express intuitive reactions and personal responses to various works (1, 4)	Question/weigh evidence and information, examine intuitive reactions, and articulate personal attitudes toward visual work (1, 2, 5)
Benchmark 6	Identify where and how the visual arts are used in daily life and in the community (1, 2, 4)	Describe the use and value of the visual arts in daily life, the workplace, and the community (1, 2, 4)	Integrate knowledge of the visual arts in the total environment to understand the arts within a community (2, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter C. Historical and Cultural Perspective

§921. Purpose

A. Focus. Historical and cultural perspective is the vehicle for understanding works of art in time and place. The arts survive through times of interruption and neglect; they outlive governments, creeds, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

B. Standard. Students develop historical and cultural perspective by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§923. Benchmarks K-4

A. In grades K-4, students should know and be able to:

VA-HP-E1	Identify the subject, basic style, and culture represented by various works of art	(2, 4)
VA-HP-E2	Recognize universal symbols and how works of art communicate a universal language	(1, 4, 5)
VA-HP-E3	Identify art images and themes from the past and present and discuss historical differences	(1, 2, 4)
VA-HP-E4	Identify media used in works of art throughout history and recognize the importance of available resources	(2, 3, 4)
VA-HP-E5	Recognize professions in the visual arts and the role and status of the artist in various cultures and time periods	(2, 4)
VA-HP-E6	Recognize great artists and works of art that have shaped the history of art	(2, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§925. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

VA-HP-M1	Identify and classify works of art by their subject, style, culture, and time period	(2, 4)
VA-HP-M2	Understand how works of art cross geographical, political, and historical boundaries	(2, 4)
VA-HP-M3	Understand the meaning and significance of ideas, themes, and messages in works of art from the past and present	(2, 4)
VA-HP-M4	Distinguish media and techniques used to create works of art throughout history	(2, 3, 4)
VA-HP-M5	Describe and compare careers in visual arts and the role and status of the artist in various cultures and time periods	(1, 2, 4)
VA-HP-M6	Identify major works of great and influential artists and recognize their achievements	(4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§927. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

VA-HP-H1	Analyze specific styles and periods of art in relation to prevailing cultural, social, political, and economic conditions	(2, 4, 5)
VA-HP-H2	Analyze how works of art cross geographical, political, and historical boundaries	(2, 4)
VA-HP-H3	Compare and contrast ways art has been used to communicate ideas, themes, and messages throughout history	(1, 2, 4)
VA-HP-H4	Analyze materials, technologies, media, and processes of the visual arts throughout history	(2, 3, 4)
VA-HP-H5	Investigate and assess roles, careers, and career opportunities in the visual arts	(2, 4)
VA-HP-H6	Identify representative visual artists of various cultures and compare their lives, careers, works, and influence	(1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

**§929. Historical and Cultural Perspective
Grade Cluster**

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Identify the subject, basic style, and culture represented by various works of art (2, 4)	Identify and classify works of art by their subject, style, culture, and time period (2, 4)	Analyze specific styles and periods of art in relation to prevailing cultural, social, political, and economic conditions (2, 4, 5)
Benchmark 2	Recognize universal symbols and how works of art communicate a universal language (1, 4, 5)	Understand how works of art cross geographical, political, and historical boundaries (2, 4)	Analyze how works of art cross geographical, political, and historical boundaries (2, 4)
Benchmark 3	Identify art images and themes from the past and present and discuss historical differences (1, 2, 4)	Understand the meaning and significance of ideas, themes, and messages in works of art from the past and present (2, 4)	Compare and contrast ways art has been used to communicate ideas, themes, and messages throughout history (1, 2, 4)
Benchmark 4	Identify media used in works of art throughout history and recognize the importance of available resources (2, 3, 4)	Distinguish media and techniques used to create works of art throughout history (2, 3, 4)	Analyze materials, technologies, media, and processes of the visual arts throughout history (2, 3, 4)
Benchmark 5	Recognize professions in the visual arts and the role and status of the artist in various cultures and time periods (2, 4)	Describe and compare careers in visual arts and the role and status of the artist in various cultures and time periods (1, 2, 4)	Investigate and assess roles, careers, and career opportunities in the visual arts (2, 4)
Benchmark 6	Recognize great artists and works of art that have shaped the history of art (2, 4)	Identify major works of great and influential artists and recognize their achievements (4, 5)	Identify representative visual artists of various cultures and compare their lives, careers, works, and influence (1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Subchapter D. Critical Analysis

§931. Purpose

A. Focus. Critical analysis is the process of inquiry associated with an individual's knowledge of the arts. Communication about the arts in a structured way provides the individual with means to describe, analyze, interpret, and make critical, reasoned judgments about the form and content of the arts.

B. Standard. Students make informed verbal and written observations about the arts by developing skills for critical analysis through the study of and exposure to the arts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§933. Benchmarks K-4

A. In grades K-4, students should know and be able to:

VA-CA-E1	View works of art and express observations about how the elements and principles of design are used in the works	(1, 4)
VA-CA-E2	Identify images, colors, and other art elements that have specific meanings in cultural contexts	(1, 4)
VA-CA-E3	Express and explain aesthetic judgments about the created (built) environment	(1, 2, 4)

VA-CA-E4	Express and explain opinions about visual works of others using basic art vocabulary	(1, 4)
VA-CA-E5	Express interpretations about works of art and give supporting reasons	(1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§935. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

VA-CA-M1	View works of art and analyze how artists use design elements and principles to achieve an aesthetic effect	(2, 3, 4)
VA-CA-M2	Analyze and interpret art images for their symbolic meaning, purpose, and value in place and time	(2, 4)
VA-CA-M3	Express and justify aesthetic judgments about the created (built) environment	(1, 2, 4)
VA-CA-M4	Critique works of art using expanded art vocabulary	(1, 4)
VA-CA-M5	Develop interpretations about works of art and give supporting reasons	(1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§937. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

VA-CA-H1	Apply knowledge of design elements and principles to analyze, compare, or contrast the composition of various works of art	(2, 4)
VA-CA-H2	Compare and contrast symbolism as used in works of visual art from different cultures and time periods	(1, 4)
VA-CA-H3	Critique the design of structures or areas in the created (built) environment based on aesthetic criteria	(1, 2, 4)

VA-CA-H4	Critique works of art using advanced art vocabulary	(1, 4)
VA-CA-H5	Develop and justify personal interpretations of works of art based on information from inside and outside the work	(1, 2, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

§939. Critical Analysis C Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	View works of art and express observations about how the elements and principles of design are used in the works (1, 4)	View works of art and analyze how artists use design elements and principles to achieve an aesthetic effect (2, 3, 4)	Apply knowledge of design elements and principles to analyze, compare, or contrast the composition of various works of art (2, 4)
Benchmark 2	Identify images, colors, and other art elements that have specific meanings in cultural contexts (1, 4)	Analyze and interpret art images for their symbolic meaning, purpose, and value in place and time (2, 4)	Compare and contrast symbolism as used in works of visual art from different cultures and time periods (1, 4)
Benchmark 3	Express and explain aesthetic judgments about the created (built) environment (1, 2, 4)	Express and justify aesthetic judgments about the created (built) environment (1, 2, 4)	Critique the design of structures or areas in the created (built) environment based on aesthetic criteria (1, 2, 4)
Benchmark 4	Express and explain opinions about visual works of others using basic art vocabulary (1, 4)	Critique works of art using expanded art vocabulary (1, 4)	Critique works of art using advanced art vocabulary (1, 4)
Benchmark 5	Express interpretations about works of art and give supporting reasons (1, 4)	Develop interpretations about works of art and give supporting reasons (1, 4)	Develop and justify personal interpretations of works of art based on information from inside and outside the work (1, 2, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Student Standards and Assessments, LR 30:

Interested persons may submit comments until 4:30 p.m., December 9, 2003, 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 1963C Louisiana Arts Content Standards State Standards for Curriculum Development

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Bulletin 1963: Art Standards, which was originally approved by BESE in 1997 have been revised to ensure they

are up-to-date and appropriate to serve as the foundation for assessment development. There will be no increase in cost to state or local governmental units to implement this policy change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no effects on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Marlyn Langley
Deputy Superintendent of
Management and Finance
0310#031

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.911, 1111, 2105)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).

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

Title 28 EDUCATION

Part IV. Student Financial AssistanceC Higher Education Scholarship and Grant Programs

Chapter 9. TOPS Teacher Award

§911. Discharge of Obligation

A. - B.4. ...

C. Discharging the loan by Monetary Repayment. Recipients who elect not to discharge the obligation by teaching and who are not eligible for discharge by cancellation must repay the loan principal plus accrued interest and any collection costs incurred according to the following terms and conditions:

1. - 3.c. ...

4. unless the recipient qualifies for reduced payments as provided in §2105.H, the amount to be repaid annually will be the greater of:

a. the amount necessary to repay the capitalized loan principal within 10 years; or
b. \$1,200 per year or the unpaid balance, whichever is less;

C.5. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 26:69 (January 2000), LR 26:1603 (August 2000), LR 27:1858 (November 2001), LR 28:774 (April 2002), LR 30:

Chapter 11. Rockefeller State Wildlife Scholarship

§1111. Discharge of Obligation

A. - B. ...

C. Monetary Repayment. Recipients who do not discharge the obligation by graduating in an eligible major and who are not eligible for discharge by cancellation must repay the loan principal, plus accrued interest and any collection costs incurred in accordance with the following terms and conditions:

1. - 3.b. ...

4. unless the recipient qualifies for reduced payments as provided in §2105.H, the annual repayment amount will be the greater of:

a. the amount necessary to repay the capitalized loan principal within seven years; or
b. \$1,200 per year or the unpaid balance, whichever is less;

C.5. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:640 (April 1998), amended LR 24:1910 (October 1998), repromulgated LR 27:1868 (November 2001), amended LR 28:775 (April 2002), LR 30:

Chapter 21. Miscellaneous Provisions and Exceptions §2105. Repayment Obligation, Deferment, Cancellation and Reduced Payments

A. - G.2. ...

H. Reduced Payments

1. Recipients who do not discharge the obligation by graduating in an eligible major and who are not eligible for discharge by cancellation must repay the loan principal, plus accrued interest and any collection costs incurred. Recipients in repayment status may request a temporary hardship repayment schedule that may be approved by LOSFA, upon receipt of documentation evidencing one or more of the following conditions:

a. the recipient is receiving federal or state public assistance;

b. the recipient's total gross, yearly income does not exceed the current federal poverty level for his/her state;

c. the recipient is experiencing a severe temporary medical condition and is unable to meet his/her financial obligations; or

d. the recipient has experienced a severe personal catastrophe or calamity and is temporary unable to meet his/her financial obligations.

2. If allowed by LOSFA, such reduced payments will continue as long as the condition(s) exist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1869 (November 2001), amended LR 28:775 (April 2002), LR 28:2331 (November 2002), LR 30:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., October 20, 2003 to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Scholarship/Grant Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to State or Local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The intention of these rule changes is to allow persons with financial hardships or other extenuating circumstances to pay an amount less than currently allowed. These changes are likely to increase agency self-generated revenues to the extent that such persons would otherwise not make payments. The actual change is unknown and unlikely to be materially significant.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes will allow students experiencing financial hardships the opportunity to pay some amount towards their obligation. The state would accept temporary partial payments in lieu of referring the account to the Louisiana Department of Justice for collection.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition or employment resulting from these measures.

George Badge Eldredge
General Counsel
0310#043

H. Gordon Monk
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Louisiana Real Estate Commission**

Transactions (LAC 46:LXVII.3905)

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.Real Estate, Chapter 39, Section 3905. The amendment adds language that will provide more definitive instructions for carrying out the requirements of Chapter 39, Section 3905.A.

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 October 20, 2003, *Louisiana Register*. The proposed Rules have no known impact on family formation, stability, or autonomy.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

**Chapter 39. Presentation of Offers and Counter
Offers**

§3905. Transactions

A. ...

B. It shall be the responsibility of each of the designated agents to make reasonable efforts to contact and notify the designated agent of the other party of the existence of an offer or counter offer.

C.1. It shall be the responsibility of the designated agent who transmits or delivers the written offer or counter offer to document the date, time of day, place, and method of delivery.

2. Such documentation as to the date, time of day, place and method of transmission or delivery of the written offer or counter offer may include, but will not be limited to, annotation by the delivering designated agent, a dated and timed facsimile transmission receipt or a dated and timed electronic mail receipt.

3. Such documentation shall be retained pursuant to 37:1449.

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 26:48 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 30:

Interested parties are invited to submit written comments on the proposed regulations through November 7, 2003 at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Commission, P.O. Box 14785, Baton Rouge, LA 70809.

Julius C. Willie
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Transactions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections. 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 to directly affected persons or non-governmental groups. Amending the Rules and regulations of the commission related to the documentation of offers and counter offers to include the language proposed in Chapter 30, Sections 3905.B and 3905.C will provide more definitive instructions for carrying out the requirements of Chapter 39, Section 3905.A, which became effective July 20, 2003.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Julius C. Willie
Executive Director
0310#059

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Occupational Therapists and Occupational Therapy
Assistants -Licensure, Certification and Practice
(LAC 46:XLV.1903, 1907, 1917-1933,
1947-1951, 1955, 1975, 4903 and 4923)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3001-3014, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, intends to amend its Rules governing licensure, certification and practice of occupational therapists and occupational therapy assistants to reflect a change in the testing and certification entity for occupational therapists and occupational therapy assistants from the American Occupational Therapy

Association (AOTA) to the National Board for Certification in Occupational Therapy, Inc. (NBCOT), and by limiting the use of NBCOT's certification marks "occupational therapist registered," "OTR," "certified occupational therapy assistant," and "COTA," to those authorized to use such designations by current NBCOT certification and/or registration, LAC 46:XLV, Subpart 2, Chapter 19, Subchapters A, B, D, F and H (§§1903, 1907, 1917-1933, 1947-1951, 1955 and 1975), respectively, and Subpart 3, Chapter 49, Subchapters A (§4903) and B (§4923). The proposed Rule amendments are set forth below. Inquires concerning the proposed amendments may be directed in writing to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLV. Medical Professions

Chapter 19. Occupational Therapists and Occupational Therapy Assistants

Subchapter A. General Provisions

§1903. Definitions

A. As used in this Chapter the following terms shall have the meanings specified.

* * *

*Department*Cthe Louisiana Department of Health and Hospitals.

* * *

*NBCOT*CNational Board for Certification in Occupational Therapy, Inc.

* * *

*Occupational Therapist*Ca person who is licensed to practice occupational therapy, as defined in this Chapter, and whose license is in good standing.

*Occupational Therapy Assistant*Ca person who is licensed to assist in the practice of occupational therapy under the supervision of, and in activity programs with the consultation of, an occupational therapist licensed under this Chapter.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

Subchapter B. Qualifications for License

§1907. Qualifications for License

A. - A.2. ...

3. have successfully completed the academic and supervised field work experience requirements to sit for the "Certification Examination for Occupational Therapist, Registered" or the "Certification Examination for Occupational Therapy Assistant" as administered for or by the NBCOT or such other certifying entity as may be approved by the board;

4. make written application to the board for review of proof of his current certification by the NBCOT on a form and in such a manner as prescribed by the board;

A.5. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

Subchapter D. Examination

§1917. Designation of Examination

A. For purposes of licensure, the board shall use the examination administered by or on behalf of the NBCOT or such other certifying entity as the board may subsequently approve.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1919. Eligibility for Examination

A. To be eligible for examination an applicant for licensure must make application to the NBCOT or its designated contract testing agency in accordance with procedures and requirements of NBCOT. Information on the examination process, including fee schedules and application deadlines, must be obtained by each applicant from the NBCOT. Application for licensure under §1913 does not constitute application for examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1921. Dates, Places of Examination

A. The dates on which and places where the NBCOT certification examination for occupational therapists and occupational therapy assistants are given are scheduled by the NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1923. Observance of Examination

A. The NBCOT examination may be observed by a representative appointed by the board. The representative is authorized and directed by the board to obtain positive photographic identification from all applicants for licensure appearing and properly registered for the examination and to observe that all applicants for licensure abide by the rules of conduct established by the NBCOT.

B. An applicant for licensure who appears for examination shall:

1. ...

2. fully and promptly comply with any and all rules, procedures, instructions, directions, or requests made or prescribed by the NBCOT or its contract testing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1925. Subversion of Examination Process

A. ...

B. Conduct which subverts or undermines the integrity of the examination process shall be deemed to include:

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions, or requests made or prescribed by the NBCOT or its contract testing agency, or the board's representative;

2. - 10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1927. Finding of Subversion

A. When, during the administration of examination the board's representative, has reasonable cause to believe that an applicant-examinee is engaging or attempting to engage, or has engaged or attempted to engage, in conduct which subverts or undermines the integrity of the examination process, the board's representative shall take such action as he deems necessary or appropriate to terminate such conduct and shall report such conduct in writing to the board and the NBCOT.

B. When the board, upon information provided by the board's representative, the NBCOT or its contract testing agency, an applicant-examinee or any other person, has probable cause to believe that an applicant has engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board shall so advise the applicant in writing, setting forth the grounds for its finding of probable cause, specifying the sanctions which are mandated or permitted for such conduct by §1929 of this Subchapter and provide the applicant with an opportunity for hearing pursuant to the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1931. Passing Score

A. The board shall use the criteria for satisfactory performance on the exam adopted by the NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1933. Reporting of Examination Score

A. Applicants for licensure shall request the NBCOT to notify the board of successful completion of the examination according to procedures for such notification established by NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

Subchapter F. License Issuance, Termination, Renewal and Reinstatement

§1947. Renewal of License

A. Every license issued by the board under this Subchapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal upon forms supplied by the board, together with the renewal fee prescribed in Chapter 1 of these Rules and documentation of satisfaction of the continuing professional education requirements prescribed by Subchapter H of these rules.

B. - D. ...

E. Current registration or certification is not a prerequisite to renewal of a license to practice as an occupational therapist or occupational therapy assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 24:1499 (August 1998), LR 30:

§1949. Reinstatement of License

A. ...

B. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of character recommendation, one from a reputable physician and one from a reputable occupational therapist of the former licensee's last professional location, together with the applicable late renewal and reinstatement fees prescribed in Chapter 1 of these rules.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 30:

§1951. Titles of Licensees

A. Any person who is issued a license as an occupational therapist under the terms of this Chapter may use the words "occupational therapist," "licensed occupational therapist," or he may use the letters "OT" or "LOT," in connection with his name or place of business to denote his licensure. In addition, any person currently certified or registered by and in good standing with the NBCOT, may use the words "licensed occupational therapist registered" or "occupational therapist registered" or "LOTR" or "OTR."

B. Any person who is issued a license as an occupational therapy assistant under the terms of this Chapter may use the words "occupational therapy assistant," "licensed occupational therapy assistant," or he may use the letters "OTA" or "LOTA" in connection with his name or place of business to denote his licensure. In addition, any person currently certified as an assistant by and in good standing with the NBCOT, may use the designation "licensed certified occupational therapy assistant" or "LCOTA" or "certified occupational therapy assistant" or "COTA."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR

12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

§1955. False Representation of Licensure Prohibited

A. No person who is not licensed under this Chapter as an occupational therapist or an occupational therapy assistant, or whose license has been suspended or revoked, shall use, in connection with his name or place of business, the words "occupational therapist," "licensed occupational therapist," "occupational therapy assistant," "licensed occupational therapy assistant," or the letters, "OT," "LOT," "OTA," "LOTA," or any other words, letters, abbreviations, or insignia indicating or implying that he is an occupational therapist or an occupational therapy assistant, or in any way, orally, in writing, in print, or by sign, directly or by implication, represent himself as an occupational therapist or an occupational therapy assistant.

B. No person who is not licensed under this Chapter as an occupational therapist or an occupational therapy assistant, or whose license has been suspended or revoked, who is not currently certified or registered by and in good standing with the NBCOT shall use, in connection with his name or place of business, the words "occupational therapist registered," "licensed occupational therapist registered," "certified occupational therapy assistant," or "licensed certified occupational therapy assistant" or the letters, "OTR," "LOTR," or "COTA," or "LCOTA" or any other words, letters, abbreviations, or insignia indicating or implying that he is an occupational therapist registered or a certified occupational therapy assistant, or in any way, orally, in writing, in print, or by sign, directly or by implication, represent himself as such.

C. Whoever violates the provisions of this section shall be fined not more than \$500 or be imprisoned for not more than six months, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

Subchapter H. Continuing Professional Education

§1975. Failure to Satisfy Continuing Professional Education Requirements

A. - B.1.c. ...

2. the applicant has, within one year prior to making application for reinstatement, taken and successfully passed the recertification examination of the NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1005 (September 1994), amended LR 24:1499 (August 1998), LR 30:

Chapter 49. Occupational Therapists and Occupational Therapy Assistants

Subchapter A. General Provisions

§4903. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

*Occupational Therapist*Ca person who is licensed to practice occupational therapy, as defined in this Chapter, and whose license is in good standing.

*Occupational Therapy Assistant*Ca person who is licensed to assist in the practice of occupational therapy under the supervision of, and in activity programs with the consultation of, an occupational therapist licensed under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

Subchapter B. Standards of Practice

§4923. False Representation of Licensure Prohibited

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:

Family Impact Statement

The proposed Rule amendments have no known impact on family, formation, stability or autonomy as described in R.S. 49:972.

Interested persons may submit data, views, arguments or comments on the proposed Rule amendments, in writing, through November 21, 2003 at 4 p.m., to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. He is responsible for responding to inquiries regarding the proposed Rule amendments.

John B. Bobear, M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Occupational Therapists and Occupational Therapy Assistants-Licensure, Certification and Practice

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than notice and Rule publication costs estimated at a combined total of \$408, which will be absorbed within the board's budget during FY 2004, it is not anticipated that the proposed Rule amendments will result in any additional costs or savings to the board or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed Rule amendments will have any material effect on the revenue collections of the Board of Medical Examiners or any state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amendments are in response to notification from the National Board for Certification of Occupational Therapy, Inc. (NBCOT) that Louisiana's law and/or the board's rules may permit the unauthorized use of its federally registered certification marks, i.e., "occupational therapist registered," "OTR," "certified occupational therapy assistant," and

"COTA," by practitioners licensed in this state who do not satisfy re-certification standards recently adopted by NBCOT or who have otherwise lost such certification. The proposed amendments substitute the "NBCOT" for the "AOTA" as the testing and certification entity for occupational therapists and occupational therapy assistants and limit the use of NBCOT's certification marks to those authorized by current certification/registration and standing to use them. It is not anticipated that the proposed amendments will have any material impact on costs, paperwork or workload on the licensure or practice of occupational therapists or occupational therapy assistants.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed Rule amendments will have any significant impact on competition or employment in either the public or private sector.

John B. Bobear, M.D.
Executive Director
0310#039

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Office-Based Surgery (LAC 46:XLV.Chapter 73)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and the provisions of the Louisiana Administrative Procedure Act, intends to adopt Rules governing office-based surgery by physicians, LAC 46:XLV, Subpart 3, Chapter 73, §§7301-7315. The proposed Rules define office-based surgery and prescribe equipment, personnel and other conditions attendant to its performance. Such Rules exempt procedures utilizing no anesthesia or local, oral, topical or intramuscular anesthesia, as well as those using conscious sedation or regional anesthesia as defined, either individually or in combination. Procedures performed by a physician oral and maxillofacial surgeon under the authority and scope of a license to practice dentistry in this state are also exempt, as is surgery performed in hospitals, specified out-patient and accredited facilities and medical facilities or clinics licensed regulated or maintained by the state or federal government.

Title 46

PROFESSIONAL AND OCCUPATION STANDARDS

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 73. Office-Based Surgery

Subchapter A. General Provisions

§7301. Scope of Chapter

A. The Rules of this Chapter govern the performance of office-based surgery by physicians in this state.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 30:

§7303. Definitions

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

Anesthesia Provider—an *anesthesiologist* or *certified registered nurse anesthetist* who possesses current certification or other evidence of completion of training in advanced cardiac life support training or pediatric advanced life support for pediatric patients.

Anesthesiologist—a *physician* licensed by the *board* to practice medicine in this state who has completed post-graduate residency training in anesthesiology and is engaged in the practice of such specialty.

Board—the Louisiana State Board of Medical Examiners.

Certified Registered Nurse Anesthetist ("CRNA")—an advanced practice registered nurse certified according to the requirements of a nationally recognized certifying body approved by the Louisiana State Board of Nursing ("Board of Nursing") who possesses a current license or permit duly authorized by the Board of Nursing to select and administer anesthetics or provide ancillary services to patients pursuant to R.S. 37:911 et seq., and who, pursuant to R.S. 37:911 et seq., administers anesthetics and ancillary services under the direction and supervision of a *physician* who is licensed to practice under the laws of the state of Louisiana.

Conscious Sedation—a drug-induced depression of consciousness during which patients retain the ability to independently maintain an airway, ventilatory and cardiovascular functions and respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation.

Deep Sedation, Monitored Sedation, General Anesthesia (referred to in this Chapter as "*anesthesia*" unless the context states otherwise)—a drug-induced loss of consciousness that results in the partial or complete loss of ability to independently maintain an airway, ventilatory, neuromuscular or cardiovascular function and during which patients are not arousable, even by painful stimulation.

Medical Practice Act or the Act—R.S. 37:1261-92 as may be amended from time to time.

Office-Based Surgery—any surgery or surgical procedure not exempted by these Rules that is performed in an office-based surgery setting or facility.

Office-Based Surgery Setting or Facility—any clinical setting not exempted by these Rules where surgery is performed.

Physician—a person lawfully entitled to engage in the practice of medicine in this state as evidenced by a current license or permit duly issued by the *board*.

Reasonable Proximity—a distance of not more than 30 miles or one which may be reached within 30 minutes for patients 13 years of age and older and a distance of not more than 15 miles or one which can be reached within 15 minutes for patients 12 years of age and under.

Regional Anesthesia/Blocks (referred to in this Chapter as "*regional anesthesia*")—the administration of anesthetic agents that interrupt nerve impulses without loss of consciousness or ability to independently maintain an airway, ventilatory or cardiovascular function that includes but is not limited to the upper or lower extremities. For purposes of this Chapter regional anesthesia of or near the

central nervous system by means of epidural or spinal shall be considered *general anesthesia*.

Surgery or Surgical Procedure—the excision or resection, partial or complete destruction, incision or other structural alteration of human tissue by any means, including but not limited to lasers, pulsed light, radio frequency, or medical microwave devices, that is not exempted by these Rules upon the body of a living human being for the purpose of preserving health, diagnosing or curing disease, repairing injury, correcting deformity or defects, prolonging life, relieving suffering or any elective procedure for aesthetic, reconstructive or cosmetic purposes. Surgery shall have the same meaning as "operate."

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 30:

§7305. Exemptions

A. This Chapter shall not apply to the following surgical procedures or clinical settings:

1. exempt surgical procedures include those:
 - a. requiring no anesthesia, using only local, oral, topical or intra-muscular anesthesia, those using regional anesthesia as defined by this Chapter or those using conscious sedation either individually or in combination; and/or
 - b. performed by a physician oral and maxillofacial surgeon under the authority and within the scope of a license to practice dentistry issued by the Louisiana State Board of Dentistry;
2. excepted clinical settings include:
 - a. a hospital, including an outpatient facility of the hospital that is separated physically from the hospital, an ambulatory surgical center, abortion clinic or other medical facility that is licensed and regulated by the Louisiana Department of Health and Hospitals;
 - b. a facility maintained or operated by the state of Louisiana or a governmental entity of this state;
 - c. a clinic maintained or operated by the United States or by any of its departments, offices or agencies; and
 - d. an outpatient setting currently accredited by one of the following associations or its successor association:
 - i. the Joint Commission on Accreditation of Healthcare Organizations relating to ambulatory surgical centers;
 - ii. the American Association for the Accreditation of Ambulatory Surgery Facilities; or
 - iii. the Accreditation Association for Ambulatory Health Care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 30:

§7307. Prohibitions

A. On and after January 1, 2005, no physician shall perform office-based surgery except in compliance with the Rules of this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 30:

§7309. Prerequisite Conditions

A. A physician who performs office-based surgery shall adhere to and comply with the following Rules.

1. Facility and Safety
 - a. The facility shall comply with all applicable federal, state and local laws, codes and regulations pertaining to fire prevention, building construction and occupancy, accommodations for the disabled, occupational safety and health, medical waste and hazardous waste, infection control and storage and administration of controlled substances.
 - b. All premises shall be kept neat and clean. Operating areas shall be sanitized and materials, instruments, accessories and equipment shall be sterilized.
 - c. Supplies of appropriate sterile linens, gloves and dressings shall be maintained in sufficient quantities for routine and emergency use. All surgical personnel shall wear suitable operative attire.
 - d. Supplies of appropriate drugs, medications and fluids shall be maintained in sufficient quantities for routine and emergency use.
2. Quality of Care
 - a. A physician performing office-based surgery shall:
 - i. possess current staff privileges to perform the same procedure at a hospital located within a reasonable proximity; or
 - ii.(a) have achieved board certification from a board recognized by the American Board of Medical Specialties in a specialty that encompasses the procedure performed in an office-based surgery setting; and
 - (b) possess current admitting privileges at a hospital located within a reasonable proximity;
 - b. possess current certification or other evidence of completion of training in advanced cardiac life support training or pediatric advanced life support for pediatric patients;
 - c. ensure that all individuals who provide patient care in the office-based surgery setting are duly qualified, trained and possess a current valid license or certificate to perform their assigned duties. An unlicensed individual otherwise properly trained in the performance of a given procedure or duty shall participate in a patient's care only under the on-site direction and supervision of a physician who retains responsibility to the patient for the individual's performance.
3. Patient and Procedure Selection
 - a. Any office-based surgical procedure shall be within the training and experience of the operating physician, the health care practitioners providing clinical care assistance and the capabilities of the facility.
 - b. The surgical procedure shall be of a duration and degree of complexity that shall permit the patient to recover and be discharged from the facility on the same day. Under no circumstances shall a patient be permitted to remain in an office-based surgery setting overnight.
4. Informed Consent
 - a. Informed consent for surgery and the planned anesthetic intervention shall be obtained from the patient or legal guardian in accordance with the requirements of law.
5. Patient Care

a. The anesthesia provider shall be physically present throughout the surgery.

b. The anesthesia provider or an individual possessing current certification or other evidence of completion of training in advanced cardiac life support training or pediatric advanced life support for pediatric patients shall remain in the facility until all patients have been released from anesthesia care by a CRNA or a physician.

c. Discharge of a patient shall be properly documented in the medical record.

6. Monitoring and Equipment

a. There shall be sufficient space to accommodate all necessary equipment and personnel and to allow for expeditious access to the patient and all monitoring equipment.

b. All equipment shall be in proper working condition; monitoring equipment shall be available, maintained, tested and inspected according to the manufacturer's specifications.

c. A secondary power source appropriate for equipment in use in the event of a power failure shall be available. In the event of an electrical outage which disrupts the capability to continuously monitor all specified patient parameters, heart rate and breath sounds shall be monitored using a precordial stethoscope or similar device and blood pressure measurements shall be re-established using a non-electrical blood pressure measuring device until power is restored.

d. In an office where anesthesia services are to be provided to infants and children the required equipment, medication, including drug dosage calculations, and resuscitative capabilities shall be appropriately sized for a pediatric population.

e. All facilities shall have an auxiliary source of oxygen, suction, resuscitation equipment and medication for emergency use. A cardiopulmonary resuscitative cart shall be available and shall include, but not be limited to, an Ambu Bag, laryngoscope, emergency intubation equipment, airway management equipment, a defibrillator with pediatric paddles if pediatric patients are treated and a medication kit which shall include appropriate non-dated medication for the treatment of anaphylaxis, cardiac arrhythmia, cardiac arrest and malignant hyperthermia when triggering agents are used or if the patient is at risk for malignant hyperthermia. Resources for determining appropriate drug doses shall be readily available.

7. Emergencies and Transfers

a. Emergency instructions along with the names and telephone numbers to be called in the event of an emergency (i.e., emergency medical services ("EMS"), ambulance, hospital, 911, etc.) shall be posted at each telephone in the facility.

b. Agreements with local EMS or ambulance services shall be in place for the purpose of transferring a patient to a hospital in the event of an emergency.

c. Pre-existing arrangements shall be established for definitive care of patients at a hospital located within a reasonable proximity when extended or emergency services are needed to protect the health or well being of the patient.

8. Medical Records

a. A complete medical record shall be documented and maintained of the patient history, physical and other examinations and diagnostic evaluations, consultations, laboratory and diagnostic reports, informed consents, preoperative, inter-operative and postoperative anesthesia assessments, the course of anesthesia, including monitoring modalities and drug administration, discharge and any follow-up care.

9. Policies and Procedures

a. Written policies and procedures for the orderly conduct of the facility shall be prepared for the following areas:

i. management of anesthesia including:

(a). patient selection criteria;

(b). drug overdose, cardiovascular and respiratory arrest, and other risks and complications from anesthesia;

(c). the procedures to be followed while a patient is recovering from anesthesia in the office; and

(d). release from anesthesia care and discharge criteria;

ii. infection control (surveillance, sanitation and asepsis, handling and disposal of waste and contaminants, sterilization, disinfection, laundry, etc.); and

iii. management of emergencies, including:

(a). the procedures to be followed in the event that a patient experiences a complication;

(b). the procedures to be followed if the patient requires transportation for emergency services including the identity and telephone numbers of the EMS or ambulance service if one is to be utilized, the hospital to which the patient is to be transported and the functions to be undertaken by health care personnel until a transfer of the patient is completed;

(c). fire and bomb threats.

b. All facility personnel providing patient care shall be familiar with, appropriately trained in and annually review the facility's written policies and procedures.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 30:

§7311. Administration of Anesthesia

A. Evaluation of the Patient. An anesthesia provider shall perform a pre-anesthesia evaluation, counsel the patient and prepare the patient for anesthesia.

B. Diagnostic Testing, Consultations. Appropriate pre-anesthesia diagnostic testing and consults shall be obtained as indicated by the pre-anesthesia evaluation.

C. Anesthesia Plan of Care. A patient-specific plan for anesthesia care shall be formulated based on the assessment of the patient, the surgery to be performed and the capacities of the facility.

D. Administration of Anesthesia. Anesthesia shall be administered by an anesthesia provider who shall not participate in the surgery.

E. Monitoring. Monitoring of the patient shall include continuous monitoring of ventilation, oxygenation and cardiovascular status. Monitors shall include, but not be limited to, pulse oximetry, electrocardiogram continuously,

non-invasive blood pressure measured at appropriate intervals, an oxygen analyzer and an end-tidal carbon dioxide analyzer. A means to measure temperature shall be readily available and utilized for continuous monitoring when indicated. An audible signal alarm device capable of detecting disconnection of any component of the breathing system shall be utilized. The patient shall be monitored continuously throughout the duration of the procedure. Post-operatively, the patient shall be evaluated by continuous monitoring and clinical observation until stable. Monitoring and observations shall be documented in the patient's medical record.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 30:

§7313. Reports to the Board

A. A physician performing office-based surgery shall notify the board in writing within 15 days of the occurrence or receipt of information that an office-based surgery resulted in:

1. an unanticipated and unplanned transport of the patient from the facility to a hospital emergency department;
2. an unplanned readmission to the office-based surgery setting within seventy-two hours of discharge from the facility;
3. an unscheduled hospital admission of the patient within 72 hours of discharge from the facility; or
4. the death of the patient within 30 days of surgery in an office-based facility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 30:

§7315. Effect of Violation

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 30:

Family Impact Statement

The proposed Rules have no known impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Interested persons may submit written data, views, arguments, information or comments on the proposed Rules until 4:00 p.m., November 21, 2003, to John B. Bobear, M.D, Executive Director, Louisiana State Board of Medical Examiners, at P.O. Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, LA 70130). He is responsible for responding to inquiries regarding the proposed Rules.

John B. Bobear, M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Physicians-Practice

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than notice and Rule publication costs estimated at a combined total of \$680, which will be absorbed within the board's budget during FY 2004, it is not anticipated that the proposed Rules will result in any additional costs or savings to the board or any state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed Rules will have any material effect on the revenue collections of the Board of Medical Examiners or any state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

While the board has no reliable data it is believed that a small number of affected physicians may experience an increase in costs and/or decrease in revenue. Such affected physicians would be economically impacted only if and to the extent that they lack equipment or do not hold hospital privileges specified by the proposed Rules. The board is not, however, in a position to estimate the proposed Rules' effect in either of these respects as no information or data is available either as to the number of physicians who perform office-based surgery falling within the preview of the proposed Rules, the extent to which they already comply with the Rules' equipment and other requirements and whether they enjoy the privileges specified. Any increase in costs or decrease in revenue to affected physicians would, of course, be offset to an immeasurable degree by the benefits (health, safety, welfare and attendant cost savings) to the citizens of this state. Moreover, the board does not anticipate that implementation of the proposed Rules will have a material affect on paperwork or workload of physicians who may perform office-based surgery.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed Rules will have any significant impact on competition or employment in either the public or private sector.

John B. Bobear, M.D.
Executive Director
0310#040

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Safe Drinking Water Program
Stage 1 Disinfectants and Disinfection Byproducts Rule
(LAC 51:XII.101, 311, 367, 1103,
1110-1112, 1115, Chapters 13 and 15)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Office of Public Health (DHH-OPH) intends to amend Part XII (Water Supplies) of the Louisiana State Sanitary Code. These amendments are necessary in order that DHH-OPH may be able to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public

water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C. §300f, et seq.) primary implementing regulations (40 CFR Part 141).

This Rule is specifically necessary due to a federal rule promulgated by the USEPA in the *Federal Register* dated December 16, 1998 (Volume 63, Number 241, pages 69389 through 69476), which is entitled "National Primary Drinking Water Regulations: Disinfectants and Disinfection Byproducts; Final Rule." This Rule is commonly referred to as the federal Stage 1 Disinfectants and Disinfection Byproducts Rule (Stage 1 DBPR). In addition, technical corrections to the Stage 1 DBPR were promulgated by the USEPA in the *Federal Register* dated January 16, 2001 (Volume 66, Number 10, pages 3769 through 3780) and in the *Federal Register* dated February 12, 2001 (Volume 66, Number 29, page 9903).

A public water system (PWS) is classified as either a community water systems (CWSs), a non-transient non-community water systems (NTNCWSs), or a transient non-community water systems (TNCWSs). Definitions/examples of CWSs, NTNCWSs, and TNCWSs may be found in R.S. 40:5.8. This proposed Rule is only applicable to CWSs and NTNCWSs which add a chemical disinfectant (such as chlorine, chloramines, chlorine dioxide, ozone, etc.) to the water in any part of the drinking water treatment process. Also, certain provisions are specifically applicable to those TNCWSs which utilize chlorine dioxide in their treatment processes [e.g., monitoring/maximum residual disinfectant level (MRDL) for chlorine dioxide and monitoring/maximum contaminant level (MCL) for chlorite].

For CWS and NTNCWs whose source of water supply is surface water, or ground water under the direct influence of surface water (GWUDISW), serve 10,000 or more individuals, and add a chemical disinfectant in the treatment process, the compliance date under the federal Stage 1 DBPR was January 1, 2002. Likewise, TNCWSs whose source of water supply is surface water, or ground water under the direct influence of surface water (GWUDISW), serve 10,000 or more individuals, and add chlorine dioxide in the treatment process, the compliance date under the federal Stage 1 DBPR was January 1, 2002.

For CWSs and NTNCWS whose source of water supply is surface water or GWUDISW, serve less than 10,000 individuals, and add a chemical disinfectant in the treatment process, the compliance date under the federal Stage 1 DBPR is January 1, 2004. In addition, TNCWSs whose source of water supply is surface water or GWUDISW, serve less than 10,000 individuals, and add chlorine dioxide in the treatment process, the compliance date under the federal Stage 1 DBPR is January 1, 2004.

For CWSs and NTNCWSs whose source of water supply is only ground water (and such ground water is not considered GWUDISW), serve 25 or more individuals, and add a chemical disinfectant in the treatment process, the compliance date under the federal Stage 1 DBPR is January 1, 2004.

The major reason for this proposed amendment to Part XII (Water Supplies) of the Louisiana State Sanitary Code is to adopt an equivalent Stage 1 DBPR on the state level. The

Rule proposes to add a new Chapter 13 to Part XII entitled "Stage 1 Disinfectants and Disinfection Byproducts Rule" as well as a new Chapter 15 to Part XII entitled "Approved Chemical Laboratories/Drinking Water."

The proposed Rule applies to public water systems that add or use a chemical disinfectant for either primary or residual treatment of the drinking water. The general purposes of the proposed Rule are to:

1.) establish maximum residual disinfectant levels (MRDLs) for three disinfectants (chlorine, chloramines, and chlorine dioxide);

2.) lower the existing maximum contaminant level (MCL) for total trihalomethanes (TTHMs) applicable to systems serving 10,000 or more individuals (TTHMs is one group of organic disinfection byproducts);

3.) establish a MCL for TTHMs which is applicable to systems serving less than 10,000 individuals;

4.) establish a MCL for Haloacetic Acids (HAA5) (HAA5 is another group of organic disinfection byproducts);

5.) establish a MCL for chlorite [an inorganic disinfection byproduct created when using chlorine dioxide];

6.) establish a MCL for bromate [another inorganic disinfection byproduct created when using ozone]; and

7.) establish a treatment technique (TT) requirement for the control of disinfection byproduct (DBP) precursor chemicals applicable to systems whose source of water supply is surface water or GWUDISW using conventional filtration treatment;

8.) regulate all laboratories (including both on-site water plant laboratories as well as private, commercial laboratories) which perform analyses on compliance monitoring samples wherein the particular parameter is not required to be analyzed by a laboratory holding official certification from the Office of Public Health (OPH) or the USEPA. The distinction will be that laboratories found acceptable under proposed Chapter 15 herein may be considered "approved," but not officially "certified" by OPH (as that term is currently used in LAC 51:XII.301.C).

The USEPA and DHH-OPH believe that the implementation of this Rule will reduce the levels of disinfectants and disinfection byproducts (DBPs) in drinking water supplies. The ultimate goal is to reduce the public's exposure to potentially harmful DBPs in their drinking water.

In addition, the proposed amendment to Part XII also updates adoption of the *Recommended Standards for Water Works* (commonly called the Ten State Standards) from the 1982 Edition to the 1997 Edition. Also, portions of the Interim Enhanced Surface Water Treatment Rule (LAC 51:XII.Chapter 11) which was adopted December 20, 2002 are proposed to be amended to specifically address the calibration/validation of pH meters and temperature measuring devices as well as the correction of several typographical errors wherein the word "Appendix" is to be changed to the word "Chapter." Finally, Sections 311 and 367 of Part XII are proposed to be amended to increase the retention time for certain records from the current two year requirement to three years in order to be consistent with recordkeeping provisions adopted in the Interim Enhanced Surface Water Treatment Rule.

For the reasons set forth above, Part XII (Water Supplies) of the Louisiana State Sanitary Code is proposed to be amended as follows:

**Title 51
PUBLIC HEALTHC
SANITARY CODE
Part XII. Water Supplies**

Chapter 1. General

§101. Definitions

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

* * *

*Certified Chemical Laboratory/Drinking Water*Ca laboratory meeting the requirements contained within the *Laboratory Certification Manual* and which has been officially certified by the state health officer to analyze and report compliance monitoring sample results for one or more physical, chemical, or radiological parameters associated with drinking water. Certification may be obtained on a parameter by parameter basis only.

* * *

*National Primary Drinking Water Regulations*C

a. drinking water regulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, et seq., and as published in the July 1, 1999 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141), less and except:

i. Subpart HCFiltration and Disinfection (40 CFR 141.70 through 40 CFR 141.75);

ii. Subpart MCInformation Collection Requirements (ICR) for Public Water Systems (40 CFR 141.140 through 40 CFR 141.144); and

iii. Subpart PCEnhanced Filtration and Disinfection (40 CFR 141.170 through 141.175);

b. 40 CFR 141 drinking water regulation amendments promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, et seq., and as published in the *Federal Register* dated January 16, 2001 (Volume 66, Number 10, pages 3769 through 3780), less and except:

i. any amendments contained therein applicable to 40 CFR 141.70 through 141.75; and

ii. any amendments contained therein applicable to 40 CFR 141.170 through 141.175; and

c. 40 CFR 141 drinking water regulation amendments promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, et seq., and as published in the *Federal Register* dated February 12, 2001 (Volume 66, Number 29, page 9903).

d. When "Subpart H" or "Subpart P" is used within the actual text of the drinking water regulations cited in Subparagraphs a, b, or c of this Paragraph (definition), "LAC 51:XII.Chapter 11" shall be substituted therein.

* * *

*Ten State Standards*Cthe *Recommended Standards for Water Works* (1997 Edition)* promulgated by the Great Lakes and Upper Mississippi Board of State Sanitary Engineers and any modifications and additions to these Standards which the state health officer may establish in this Part.

*NOTE: Published by: Health Education Service, P.O. Box 7126, Albany, New York 12224

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4, 40:5, and 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1318 (June 2002), amended LR 28:2513 (December 2002), LR 30:

Chapter 3. Water Quality Standards

§311. Records

[formerly paragraph 12:003-2]

A. Complete daily records of the operation of water treatment plants, including reports of laboratory control tests, shall be kept for a period of three years on forms approved by the state health officer. Copies of these records shall be provided to the office designated by the state health officer within 10 days following the end of each calendar month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002), amended LR 30:

§367. Records

[formerly paragraph 12:021-7]

A. Daily records of chlorine residual measurements shall be kept. These records shall be maintained on forms approved by the state health officer and shall be retained for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002), amended LR 30:

Chapter 11. Interim Enhanced Surface Water Treatment Rule

Subchapter A. General Requirements and Definitions

§1103. Definition of Terms

A. ...

B. Definitions. Definitions contained in §101 of this Part shall also apply to this Chapter except where the following special definitions apply.

* * *

*Best Available Technology*Cfor the purpose of this Chapter in relation to the treatment of surface water, means conventional filtration treatment which conforms with all of the requirements of this Chapter.

* * *

*Calibration_{pH}*Cto standardize (adjust the instrument response to a pH primary standard) a pH meter (such as a bench top or continuous monitoring pH meter) by determining the deviation from a pH primary standard so as to ascertain and implement the proper correction factors in an attempt to obtain accurate and reliable results.

* * *

*Calibration_{temp}*Cto standardize [adjust the instrument response to a NIST traceable standard] a temperature measuring device (such as a thermometer or thermocouple)

by determining the deviation from a NIST traceable standard so as to ascertain and implement the proper correction factors in an attempt to obtain accurate and reliable sample results.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8), R.S. 40:5(2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1336 (June 2002), amended LR 28:2514 (December 2002), LR 30:

§1110. Calibration_{pH}/Validation of pH Meters

A. pH of water within the water treatment plant shall be conducted using a pH meter having a minimum accuracy of " 0.2 pH units.

B. Benchtop pH meters used for determining the pH of water within the water treatment plant shall be calibrated at least once each day in accordance with Section 4.a. of SM 4500-H⁺ B (Electrometric pH Method) of the *Standard Methods for the Examination of Water and Wastewater*, 19th Edition, or the manufacturer's specifications.

C. The calibration_{pH} of benchtop pH meters shall be validated with at least one buffer solution each time a series of samples is run and, if necessary, recalibrated in accord with the requirements of Paragraph B of this Section.

D. On-line pH meters shall be calibrated_{pH} according to the manufacturer's specifications at least once each day.

E. Records of calibrations on each pH meter shall be maintained for at least three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§1111. Calibration_{temp}/Validation of Temperature Measuring Devices

A. Water temperature within the water treatment plant shall be measured using a thermometer, thermocouple, or other temperature measuring device having a minimum accuracy of "0.5 degrees Celsius (0.5EC).

B. Service thermometers, thermocouples, and other temperature measuring devices used for determining water temperature within the water treatment plant shall be validated using a thermometer that has been calibrated annually against a NIST certified thermometer. The NIST certified thermometer shall be sent back to the manufacturer for recalibration at least once every three years.

C. Records of validations/calibrations on each temperature measuring device shall be maintained for at least three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002, amended LR 28:2518 (December 2002), LR 30:

§1112. Cleaning of Analytical Instrumentation

A. A thorough cleaning of analytical instrumentation (particularly continuous monitoring turbidimeters, disinfectant residual monitors, and pH meters) shall be performed, as necessary, prior to performing any calibration/validation. On a weekly basis, continuous monitoring turbidimeters and continuous disinfectant residual monitors shall be inspected to determine if there is any material or sedimentation in the measuring chambers. Records of such inspection/cleaning shall be kept for at least

three years and such records shall include meter location (e.g., model and serial number), dates of cleaning, and the name of the person performing the cleaning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§1115. Filtration Performance Standards

A. - B.1.[Table 2]. ...

2. Expected minimum removal credits for public water systems serving less than 10,000 individuals are listed in Table 3 of this Chapter along with the corresponding remaining disinfection log inactivation required.

B.2.[Table 3] - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002), amended LR 28:2519 (December 2002), LR 30:

Chapter 13. Stage I Disinfectants and Disinfection Byproducts Rule

Subchapter A. General

§1301. General

A. Pursuant to the definition of National Primary Drinking Water Regulations and the provisions of §377 of this Part, the Department of Health and Hospitals (DHH) Office of Public Health (OPH) adopts by reference the United States Environmental Protection Agency (USEPA) federal Disinfectants and Disinfection Byproducts Rule (D/DBPR) as published in the *Federal Register* dated December 16, 1998 (Volume 63, Number 241, pages 69389 through 69476). In addition, under §377 of this Part, DHH-OPH also adopted by reference certain USEPA technical corrections to the federal D/DBPR. The applicable technical corrections were published in the *Federal Register* dated January 16, 2001 (Volume 66, Number 10, pages 3769 through 3780) and in the *Federal Register* dated February 12, 2001 (Volume 66, Number 29, page 9903). The regulations in this Chapter are promulgated in order to clarify the State's discretionary decisions allowed by the federal requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

Subchapter B. Disinfection Byproduct (DBP)

Precursor Control

§1303. Applicability

A. The requirements of this Subchapter shall only be applicable to public water systems whose source of water is surface water or ground water under the direct influence of surface water (GWUDISW) which employ conventional filtration treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§1305. Monthly TOC Monitoring/Reporting

A. Public water systems meeting §1303.A applicability requirements of this Subchapter shall submit the results of their paired (source water and treated water) total organic carbon (TOC) samples (which have been collected for compliance determination in accord with the system's approved D/DBPR monitoring plan) to the state health

officer monthly for each individual treatment plant. In addition, the result of source water alkalinity sampling conducted at the same time as the source water TOC sample shall also be submitted to the state health officer monthly for each individual treatment plant. The actual monthly TOC percent removal and the removal ratio (reported to two significant figures past the decimal point) shall be calculated in accord with 40 CFR 141.135(c) and indicated on the form. All results for each particular plant shall be on a report form approved by the state health officer. Such report shall specifically be provided to the OPH District Engineering office which has jurisdictional oversight of the public water system within 10 days following the end of each calendar month.

B. When monthly TOC percent removal calculations performed under paragraph A of this Section result in a negative number (indicative of having a higher level of TOC in treated water than in source water), a "0" percent removal shall be reported for that particular paired sample set instead of the negative number. If this should happen, OPH recommends that an additional paired sample set of TOC samples be collected later in that same month. If the system chooses to collect an additional paired sample set of TOC samples during that same month, the system shall mathematically average the "0" result of the first paired sample set with the result of the second paired sample set and report such average as the monthly TOC percent removal achieved on the monthly TOC report form. If the system does not choose to collect an additional paired sample set of TOC samples during that same month, the system shall report a "0" percent removal achieved on the monthly TOC report form.

C. Plant sites having multiple treatment trains shall perform TOC paired monitoring on each treatment train and report the results of each separate treatment train on its own, individual, and properly identified TOC monthly operating report. The actual monthly TOC percent removal and the removal ratio (reported to two significant figures past the decimal point) for the entire plant site shall be determined by performing a flow-weighted average using the results from each individual treatment train. The percent flow attributed to each treatment train shall be reported and shown in the flow-weighted average calculation formula.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§1307. Quarterly TOC Report

A. At the end of each calendar quarter, public water systems meeting §1303.A applicability requirements of this Subchapter shall submit a quarterly TOC report to the state health officer for each plant site. Particularly, after 12 consecutive months of TOC compliance monitoring have occurred, the system shall, following the end of each calendar quarter, calculate the running annual TOC removal ratio average using the previous 12 months of monthly TOC removal ratios as the basis. [For example, the report for the fourth calendar quarter of 2004 (required to be submitted no later than January 10, 2005) will consist of the annual average removal ratio determined from the 12 monthly removal ratios reported from each of the then 12 preceding months, i.e., January through December 2004. The report for the first calendar quarter 2005 (required to be submitted no

later than April 10, 2005) will consist of the annual average removal ratio determined from the 12 monthly removal ratios reported from each of the then preceding 12 months, i.e., April 2004-March 2005. The report for the second calendar quarter 2005 (required to be submitted no later than July 10, 2005) will consist of the annual average removal ratio determined from the 12 monthly removal ratios reported from each of the then preceding 12 months, i.e., July 2004-June 2005. The report for the third calendar quarter 2005 (required to be submitted no later than October 10, 2005) will consist of the annual average removal ratio determined from the 12 monthly removal ratios reported from each of the then preceding 12 months, i.e., October 2004-September 2005, etc.] The quarterly TOC report shall be on a report form approved by the state health officer. Such report shall specifically be provided to the OPH District Engineering office which has jurisdictional oversight of the public water system within 10 days following the end of each calendar quarter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§1309. Step 2 Bench-Scale (Jar) or Pilot-Scale Testing

A. Water systems meeting §1303(A) applicability requirements of this Subchapter which cannot achieve Step 1 TOC removal requirements following 12 months of paired TOC monitoring shall submit an application to the state health officer for approval of alternative minimum (Step 2) TOC removal requirements. Such application shall be submitted within three months of the failure to achieve the Step 1 TOC removal requirements specified in 40 CFR 141.135(b)(2). The application shall include the results of bench-scale (jar) or pilot-scale testing conducted in accordance with the applicable provisions of §377 of this Part, specifically, 40 CFR 141.135(b)(4). The system shall conduct bench-scale(jar) or pilot-scale testing at a frequency of no less than once per calendar quarter for at least one year (beginning from the time of failure to achieve Step 1 TOC removal requirements) so that seasonal changes in raw water quality may be assessed and accounted for.

B. For a system which voluntarily completed 12 months of TOC monitoring prior to the applicable compliance date of the Rule for the particular system (i.e., performed pre-compliance paired TOC/alkalinity monitoring to determine whether Step 1 TOC removals could be met before the compliance date of the Rule) and then determines in the first 12 months after the compliance date that it is not able to meet the Step 1 TOC removal requirements and therefore must apply for alternative minimum TOC removal (Step 2) requirements, the state health officer may make the Step 2 requirements retroactive for the purpose of determining compliance.

1. Pursuant to the requirements of Paragraph A of this Section, at least one Step 2 TOC bench-scale (jar) or pilot-scale test is required to be performed per calendar quarter. When the state health officer agrees to make the Step 2 TOC removal requirements retroactive in accord with the requirements of Paragraph B of this Section, the Step 2 TOC removal requirements shall be applied retroactively by the equivalent calendar quarter. [For example, Step 2 TOC removal requirements determined during the first calendar quarter of 2005 shall retroactively be applied as the TOC

requirement to the first calendar quarter of 2004; Step 2 TOC removal requirements determined during the second calendar quarter of 2005 shall retroactively be applied as the TOC requirement to the second calendar quarter of 2004; Step 2 TOC removal requirements determined during the third calendar quarter of 2005 shall retroactively be applied as the TOC requirement to the third calendar quarter of 2004; and, Step 2 TOC removal requirements determined during the fourth calendar quarter of 2005 shall retroactively be applied as the TOC requirement to the fourth calendar quarter of 2004.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§1311. Alternative Compliance Criteria

A. When a public water system meeting §1303.A applicability requirements uses an alternative compliance criteria (ACC) on its monthly TOC monitoring report, the following numbering key shall be employed to identify the specific alternative compliance criteria used.

1. ACC #1C source water TOC level is less than 2.0 mg/L.

2. ACC #2C treated water TOC level is less than 2.0 mg/L.

3. ACC #3C source water TOC is less than 4.0 mg/L and source water alkalinity is greater than 60mg/L (as CaCO₃) and either:

a. the TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively, or

b. prior to the effective date for compliance, the system has made a clear and irrevocable financial commitment not later than the effective date for compliance to use technologies that will limit the levels of TTHMs and HAA5s to no more than 0.040 mg/L and 0.030 mg/L, respectively.

4. ACC #4C the TTHM and HAA5 running annual averages are no greater than 0.040 mg/L, respectively, and the system uses only chlorine for primary disinfection and maintenance of a residual in the distribution system.

5. ACC #5C source water specific ultraviolet absorbance (SUVA) prior to any treatment is less than or equal to 2.0 L/mg-m.

6. ACC #6C finished water SUVA is less than or equal to 2.0 L/mg-m.

7. ACC #7C for systems practicing enhanced softening that cannot achieve the Step 1 TOC removal requirements and softening results in lowering the treated water alkalinity to less than 60 mg/L (as CaCO₃).

8. ACC #8C for systems practicing enhanced softening that cannot achieve the Step 1 TOC removal requirements and softening results in removing at least 10 mg/L of magnesium hardness (as CaCO₃).

B. When ACC #6 is utilized, a source water sample, prior to any treatment, shall be collected for a jar test which simulates actual plant conditions relative to coagulation and sedimentation. No oxidant or disinfectant shall be employed in this jar test. After coagulation and sedimentation have been simulated in the jar test, a sample of the supernatant shall be collected as the basis for performing the finished water SUVA test (since the finished water SUVA sample must not have been exposed to any oxidant or disinfectant).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

Subchapter C. Chlorite/Chlorine Dioxide

§1313. Monthly Reporting Required

A. If a system uses chlorine dioxide, chlorite monitoring results (daily, monthly, as well as any additional compliance monitoring) and daily chlorine dioxide residual monitoring results (as ClO₂) shall be reported to the state health officer monthly. All results shall be on a report form approved by the state health officer. Such report shall specifically be provided to the OPH District Engineering office which has jurisdictional oversight of the public water system within 10 days following the end of each calendar month.

1. Nothing within this Section shall be interpreted to exempt a public water system which uses chlorine dioxide from issuing public notification and consulting with the state health officer as soon as possible but no later than 24 hours after the system learns of an acute violation of the maximum residual disinfectant level (MRDL) for chlorine dioxide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

Subchapter D. Monitoring Plans

§1315. Monitoring Plan Required

A. Each public water system required to perform monitoring under the requirements of this Chapter shall submit a monitoring plan to the state health officer for review and approval. Such monitoring plan shall specifically be provided to the OPH District Engineering office which has jurisdictional oversight of the public water system no later than the effective date of this Rule.

B. The monitoring plan shall include a list of all routine samples required on a daily, weekly, monthly, quarterly, and annual basis and identify the sampling location where samples are to be collected.

C. The public water system shall revise and re-submit its monitoring plan if changes to a plant or distribution system require changes to the sampling locations or if any significant changes to the disinfection methods are made. In addition, the public water system shall update and re-submit its monitoring plan when the system's sampling requirements or protocols change.

D. Minor revisions to a system's monitoring plan shall be submitted to the state health officer upon request.

E. The public water system shall maintain a copy of their approved monitoring plan at each treatment plant and at a central location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

Chapter 15. Approved Chemical

Laboratories/Drinking Water

Subchapter A. Definitions and General Requirements

§1501. Definitions of Terms

A. Words Not Defined. Words not defined in this Chapter shall have the meanings stated in §101 of this Part or other Parts of the Louisiana State Sanitary Code. When words not defined in this Chapter are defined in both §101 of this Part and in another Part of the Louisiana State Sanitary

Code, the definition contained within §101 of this Part shall be given preference as it pertains to water supplies. Words not defined in any of these source documents shall have the meanings stated in the Merriam-Webster's Collegiate Dictionary-Tenth Edition, as revised.

B. Definitions. Definitions contained in §101 of this Part shall also apply to this Appendix except where the following special definitions apply.

Analyte—A particular contaminant or value that one is analyzing a water sample for, e.g., temperature, turbidity, pH, turbidity, disinfectant residual, chlorite, total organic carbon, or UV₂₅₄.

Approved Chemical Laboratory/Drinking Water—A laboratory approved by the state health officer under the requirements of this Chapter to analyze and report compliance monitoring sample results for certain physical and chemical *analytes* associated with drinking water which are not required to be analyzed in a certified chemical laboratory/drinking water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§1503. General Requirements

A. Public water systems which provide treatment (other than chlorination) to the water shall provide an approved chemical laboratory/drinking water on-site or make contractual arrangements with an approved chemical laboratory/drinking water off-site to analyze and report results for certain physical and chemical analytes which are not required to be analyzed in a certified chemical laboratory/drinking water.

1. All samples collected for compliance determination shall be either analyzed in a certified chemical laboratory/drinking water or in an approved chemical laboratory/drinking water. Samples collected for compliance determination which are allowed to be analyzed in an approved chemical laboratory/drinking water include the following:

- a. daily chlorite levels (at the point of entry to the distribution system when using chlorine dioxide);
- b. daily fluoride levels;
- c. daily corrosion inhibitor concentrations (orthophosphate and silica);
- d. pH;
- e. calcium;
- f. conductivity;
- g. temperature;
- h. alkalinity;
- i. turbidity;
- j. total organic carbon (TOC);
- k. dissolved organic carbon (DOC);
- l. UV₂₅₄;
- m. jar test for ACC #6 (as per §1311.B of this Part);
- n. jar tests for determining optimum coagulant dose (including Step 2 TOC removal per §1309 of this Part); and
- o. other drinking water analytes which are not required to be analyzed in a certified chemical laboratory/drinking water under other requirements of this Part or USEPA requirements.

B. In order to ensure an accurate and true representation of the level of an analyte associated with drinking water, the requirements of Paragraph A of this Section shall not be

construed to allow an approved chemical laboratory/drinking water off-site to perform a physical or chemical determination of an analyte when such analyte cannot be satisfactorily fixed, preserved, or transported (e.g., disinfectant residual levels, etc.).

C. An approved chemical laboratory/drinking water shall perform all analyses using the laboratory methodology specifically required to be used under the provisions of this Part for such analyte.

D. Particularly for distribution system monitoring, nothing herein shall be construed to prevent a public water system from determining the residual disinfectant concentrations for free, combined, or total chlorine by use of DPD colorimetric test kits.

1. When using a DPD colorimetric test kit and the concentration of chlorine is found to be equivalent to or above the top range limit of such test kit, proper dilution of a fresh sample of water using distilled or deionized water shall be performed and the test repeated to determine the true level of chlorine residual present in the water. This may be accomplished using a 1:2 dilution—1 part fresh sample of water to be tested to a total of 2 parts of water in the sample vial. For example, 5 ml (1 part) fresh sample of water to be tested, with 5 ml of distilled or deionized water added for a total of 10 ml (2 parts) of water in the vial. The diluted sample is run as usual; however, the result determined is then multiplied by 2 to obtain the true level of chlorine present in the water sample.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§1505. Staffing, Equipment, Quality Control and Records

A. There shall be sufficient staff to perform the tests required.

B. There shall be sufficient supplies, equipment and space to perform the required volume of work with optimal accuracy, precision, timeliness and safety.

1. All approved chemical laboratories/drinking water for public water systems that use chlorine dioxide shall be provided with an amperometric titrator with platinum-platinum electrodes capable of measuring chlorite to a minimum accuracy of plus or minus 0.05 mg/L.

2. pH must be conducted using a pH meter with a minimum accuracy of plus or minus 0.2 pH units.

3. Water temperature must be measured using a thermometer or thermocouple with a minimum accuracy of plus or minus 0.5 degrees Celsius (0.5°C).

C. An approved chemical laboratory/drinking water shall ensure that satisfactory provisions are maintained for an instrumentation preventative maintenance program, an acceptable quality control program, and an approved proficiency testing program covering all of the various types of analyses performed.

D. An approved chemical laboratory/drinking water shall ensure that records and reports are satisfactorily maintained and retrievable. Copies of records and reports for any off-site approved chemical laboratory/drinking water shall be filed in a folder identifying the public water system by name as well as its public water system identification number (PWS ID #).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

Subchapter B. Procedures to become an Approved Chemical Laboratory/Drinking Water

§1507. Application and Approval

A. All public water systems which provide treatment (other than chlorination) to the water shall submit a completed "Request for Approved Chemical Laboratory/Drinking Water" form to the state health officer. If the public water system uses one or more off-site laboratories, it shall be the responsibility of the public water system to notify each such off-site laboratory to submit its own completed "Request for Approved Chemical Laboratory/Drinking Water" form to the state health officer.

B. The "Request for Approved Chemical Laboratory/Drinking Water" form shall list all analytes run by the laboratory as well as the associated laboratory methodology. In addition, laboratories holding the status of an approved chemical laboratory/drinking water shall maintain a readily available list of the names and PWS ID #s of all public water systems it currently serves.

C. Based upon a satisfactory review of the contents of the submittal (along with a signed statement by any off-site laboratory agreeing to allow unannounced inspections of the laboratory facilities, including any applicable records, by the state health officer), the state health officer shall issue a Certificate of Approval to the public water system or off-site laboratory granting it the status of a "DHH-OPH Approved Chemical Laboratory/Drinking Water." Each laboratory facility receiving a Certificate of Approval under this Paragraph shall prominently display such certificate.

D. Any correspondence, certificate, advertisement, laboratory results, etc., to or from a "DHH-OPH Approved Chemical Laboratory/Drinking Water" shall state prominently in bold lettering the following statement:

1. This "DHH-OPH Approved Chemical Laboratory/Drinking Water" does not meet the higher criteria required by DHH-OPH to be classified as a "DHH-OPH Certified Chemical Laboratory/Drinking Water;" therefore, any results reported from this laboratory for drinking water parameters which are required to be analyzed in a certified chemical laboratory are officially deemed invalid.

2. Any sample results for a public water system which are officially deemed invalid for failure to have them analyzed in a certified chemical laboratory/drinking water may result in a monitoring violation if replacement samples are not collected and properly analyzed by a certified chemical laboratory/drinking water within the prescribed monitoring period. Any monitoring or analytical violations require public notification as prescribed in §313 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

Subchapter C. Consequences of Non-Compliance

§1509. Public Notification

A. If it becomes apparent either through laboratory reporting, on-site visits, or any other means that the "DHH-OPH Approved Chemical Laboratory/Drinking Water" is either intentionally or unintentionally not using or

improperly using the required analytical methodology to perform an accurate and precise determination of an analyte associated with drinking water, the "DHH-OPH Approved Chemical Laboratory/Drinking Water's" Certificate of Approval shall be immediately suspended or revoked by the state health officer, and all public water systems utilizing such laboratory shall provide public notification as prescribed in §313 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

Family Impact Statement

(Completed and submitted with this Notice of Intent in accordance with R.S. 49:953(A)(1)(a)(viii)and 972)

1. The effect on the stability of the familyCno known impact.

2. The effect on the authority and rights of parents regarding the education and supervision of their childrenCno known impact.

3. The effect on the functioning of the familyCno known impact.

4. The effect on family earnings and family budgetCno significant impact predicted. Assuming that a public water system that treats their water with a chemical disinfectant decides to increase rates for all of its customers served by the system in order to reimburse itself for any additional expenses incurred by the proposed Rule, any increase in the individual homeowner's water bill is expected to be of an insignificant amount. EPA estimates that 95 percent of households will incur an increase of less than a cost of \$1 per month, 4 percent of households will face a cost increase between \$1 and \$10 per month, and less than 1 percent will incur an increase of \$10 to \$33 per month (*Federal Register*, Vol. 63, No. 241, Wed., Dec. 16, 1998, pg. 69447).

5. The effect on the behavior and personal responsibility of childrenCno known impact.

6. The ability of the family or a local government to perform the function as contained in the proposed RuleCno known impact on the family. Refer to the Fiscal and Economic Impact Statement which accompanies this Rule for the effects on local governmental units.

DHH-OPH will conduct a public hearing at 10 a.m. on Tuesday, November 25, 2003, in Room 118 of the Blanche Appleby Computer Complex Building (on the Jimmy Swaggart Ministries Campus), 6867 Bluebonnet Blvd., Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

In addition, all interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than Friday, November 28, 2003 at COB, 4:30 p.m., and should be addressed to R. Douglas Vincent, Chief, Engineering Services Section, Center for Environmental Health, Office of Public Health, 6867 Bluebonnet Blvd., Box 3, Baton Rouge, LA 70810, or faxed to (225) 765-5040.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Safe Drinking Water Program
Stage 1 Disinfectants and Disinfection Byproducts Rule**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that approximately 449 of the approximately 997 public water systems (PWSs) affected by the proposed Rule are governmentally owned. Local governmental units will be affected by the proposed rule if they own, manage, or operate a PWS that adds a chemical disinfectant to the drinking water during any part of the treatment process. Systems whose source of water supply is surface water and serve 10,000 or more individuals were legally required to comply with the provisions of the federal D/DBPR on January 1, 2002. Systems whose source of water supply is surface water and that serve less than 10,000 individuals and all systems whose source of water supply is only ground water are required to comply on January 1, 2004.

DHH-OPH has assisted (and continues to assist) approximately 74 public water systems which chemically disinfect and serve 10,000 or more individuals in complying with federal TTHM regulations (since TTHMs were first regulated by the USEPA in 1979). This assistance is in the form of DHH-OPH taking upon itself the responsibility of collecting TTHM samples from these affected public water systems as well as analyzing such samples in the DHH-OPH laboratory. Beginning January 2002, DHH-OPH also began to collect and analyze HAA5 samples from surface water systems in this same subset of affected public water systems. Since DHH-OPH staff will be on-site already to collect the TTHM samples, beginning January 2004 DHH-OPH staff will additionally collect and analyze HAA5 samples from the 47 groundwater systems in this subset at an estimated cost of \$14,100 during FY 2003-04, \$29,046 in FY 2004-05, and \$29,917 in FY 2005-06.

DHH-OPH does not have sufficient funds to collect and analyze all of the TTHM and HAA5 samples required beginning January 2004 for public water systems which chemically disinfect and serve less than 10,000 individuals. In August 2003, DHH-OPH notified such systems that it shall be their responsibility for contracting with a USEPA or OPH-certified chemical laboratory, collecting their own TTHM and HAA5 samples, properly shipping such samples to such laboratory, and reporting the sample results to DHH-OPH in a timely manner. It is estimated that the monitoring cost to affected public water systems whose source of water is only groundwater will be at least \$300 per year (one sample set per year). It is also estimated that the monitoring cost to affected public water systems whose source of water is surface water will be at least \$1,200 per year (4 sample sets per year). Should a groundwater system experience an exceedance of the maximum contaminant level (MCL), monitoring will be increased from one sample set per year up to 4 sample sets per year; therefore, certain groundwater systems may experience a monitoring cost of at least \$1,200 per year also. Please note that these figures only represent monitoring costs. If the MCL is exceeded, additional costs will be incurred by the public water system to lower the TTHM and/or HAA5 levels within the system's distribution system (such as changing disinfectants, changes in treatment processes, etc.).

Of the 391 governmentally owned systems which are currently not monitored by DHH-OPH, 369 are groundwater systems and 22 are surface water systems; thus, the total annual monitoring costs alone are expected to be at least \$110,700 for these groundwater systems and \$26,400 for these surface water systems.

Based upon the USEPA's cost analysis, the estimated annualized cost to all affected Louisiana utilities is \$9.58 million which includes start-up and on-going implementation, treatment (includes operation/maintenance and capital costs), and monitoring costs.

The Safe Drinking Water Program of the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, Engineering Services Section, will incur an expense of approximately \$2,000 in FY 2003-04 funds in order to pay the Office of the State Register to have the Notice of Intent and the final Rule published in the *Louisiana Register*. The source of these funds will be from Agency Self Generated funds through the Safe Drinking Water Program Administration Fee (R.S. 40:30.33).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State and local governmental units which own, manage, and/or operate a PWS that adds a chemical disinfectant to the drinking water during any part of the treatment process may determine a need to increase their revenue collections (i.e., increase water bills) to cover the cost of complying with the proposed Rule; however, if such increases are warranted, they will be warranted regardless whether or not this equivalent state Rule is adopted since such systems serving 10,000 or more people are already required (and will continue to be required) and in January of 2004 all systems that chemically disinfect will have to comply under the new federal D/DBPR. USEPA has estimated that 95 percent of the households will incur an increase cost of less than \$1.00 per month and four percent will face an increase in cost between \$1.00 to \$10.00 per month. Less than one percent of households will incur an increase of \$10 to \$33 per month. The actual effect on revenue collections is hard to predict due to variables in the applicable requirements based upon various sized systems.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that approximately 548 of the approximately 997 systems affected by the proposed Rule are non-governmentally owned. Any person, corporation, investor-owned utility company, franchise water system, etc., will be affected by the proposed Rule if they own, manage, or operate a PWS that adds a chemical disinfectant to the drinking water during any part of the treatment process. Systems whose source of water supply is surface water and serve 10,000 or more individuals were legally required to comply with the provisions of the federal D/DBPR on January 1, 2002. Systems whose source of water supply is surface water and that serve less than 10,000 individuals and all systems whose source of water supply is only ground water are required to comply on January 1, 2004.

DHH-OPH has assisted (and continues to assist) approximately 74 public water systems which chemically disinfect and serve 10,000 or more individuals in complying with federal TTHM regulations (since TTHMs were first regulated by the USEPA in 1979). This assistance is in the form of DHH-OPH taking upon itself the responsibility of collecting TTHM samples from these affected public water systems as well as analyzing such samples in the DHH-OPH laboratory. Beginning January 2002, DHH-OPH also began to collect and analyze HAA5 samples from this same subset of affected public water systems.

DHH-OPH does not have sufficient funds to collect and analyze all of the TTHM and HAA5 samples required beginning January 2004 for public water systems which chemically disinfect and serve less than 10,000 individuals. In August 2003, DHH-OPH notified such systems that it shall be their responsibility for contracting with a USEPA or OPH-certified chemical laboratory, collecting their own TTHM

and HAA5 samples, properly shipping such samples to such laboratory, and reporting the sample results to DHH-OPH in a timely manner. It is estimated that the monitoring cost to affected public water systems whose source of water is only groundwater will be at least \$300 per year (one sample set per year). It is also estimated that the monitoring cost to affected public water systems whose source of water is surface water will be at least \$1,200 per year (4 sample sets per year). Should a groundwater system experience an exceedance of the maximum contaminant level (MCL), monitoring will be increased from one sample set per year up to 4 sample sets per year; therefore, certain groundwater systems may experience a monitoring cost of at least \$1,200 per year also. Please note that these figures only represent monitoring costs. If the MCL is exceeded, additional costs will be incurred by the public water system to lower the TTHM and/or HAA5 levels within the system's distribution system (such as changing disinfectants, changes in treatment processes, etc.).

Of the 532 non-governmentally owned systems which are currently not monitored by DHH-OPH, 514 are groundwater systems and 18 are surface water systems; thus, the total annual monitoring costs alone are expected to be at least \$154,200 for these groundwater systems and \$21,600 for these surface water systems.

Based upon the USEPA's cost analysis, the estimated annualized cost to all affected Louisiana utilities is \$9.58 million which includes start-up and on-going implementation, treatment (includes operation/maintenance and capital costs), and monitoring costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule will likely cause an increase in competition to hire and retain qualified and certified water plant operators. The Rule will require water plant operators to become more knowledgeable of plant processes and controls. The more competent and qualified an operator is, the higher will be the competition to hire and retain him/her. In addition, the proposed Rule will likely require employing more sophisticated treatment systems within the treatment plant. This will cause an increase in employment to install and maintain such sophisticated treatment systems.

Sharon G. Howard
Assistant Secretary
0310#093

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Admissions Criteria for Inpatient Facilities
(LAC 48:I.Chapter 16)

Notice is hereby given, under the authority of Act 1249 of the 2003 Regular Session of the Louisiana Legislature, that the Louisiana Department of Health and Hospitals proposes to adopt the following Rule governing admissions criteria for inpatient facilities operated by the Department of Health and Hospitals. Each Office within the Department of Health and Hospitals that operates inpatient facilities, i.e., Office of the Secretary, Office for Addictive Disorders, Office for Citizens with Developmental Disabilities, and Office of Mental Health, has established admissions criteria included in this Notice of Intent. In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been

considered. It is anticipated that this proposed Rule will have a positive impact on the family as it will increase the opportunity for the family member to return to the family sooner, after appropriate treatment in an appropriate facility.

Title 48

HEALTH AND HOSPITALS GENERAL

Part I. General Administration

§1601. Purpose and Scope

A. In accordance with the requirements of Act 1249 of the 2003 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals adopts admission criteria for inpatient facilities operated by the Department of Health and Hospitals. Admission criteria are specific to each DHH Office that operates inpatient facilities as indicated in this Rule. In accordance with R.S. 28:20(B) no person shall be admitted voluntarily, involuntarily, by court order, or by commitment to a department facility unless the person meets the criteria set forth in this Rule and Act 1249.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:

§1603. Definitions

Adult Anyone age 18 and over.

Axis I Diagnosis Ca reporting group in the Diagnostic and Statistical Manual for all the various mental disorders or conditions in the Classification except for Personality Disorders and Mental Retardation.

Child Anyone under age 18.

DSM the Diagnostic and Statistical Manual that has a multi-axial system that includes an assessment on several axes, each of which refers to a different domain of information that may help the clinician plan treatment and predict outcomes.

Level of Functioning Scale Assessment tool that passes defined standards for use as an evaluative tool and is thereby provided for professional use to define the degree to which an individual is capable of accomplishing various skills associated with managing activities of daily living.

Mental Retardation significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior, and manifested during the developmental period.

OADC the Office for Addictive Disorders in the Department of Health and Hospitals.

OMHC the Office of Mental Health in the Department of Health and Hospitals.

Related Condition Ca severe chronic disability that meets all the following criteria:

1. it is attributable to:
 - a. cerebral palsy or epilepsy; or
 - b. any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, and requires treatment or services similar to those required for these persons;
2. it is manifested before the person reached age 22;
3. it is likely to continue indefinitely; and
4. it results in substantial functional limitations in three or more of the following areas of major life activity:
 - a. self-care;
 - b. understanding and use of language;

- c. learning;
- d. mobility;
- e. self-direction; or
- f. capacity for independent living.

Single Point of Entry (SPOE) that process by which an individual is screened by an agent within an Office of Mental Health (OMH) service area who is responsible for certifying that the individual meets the criteria for admission to an OMH inpatient facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:

§1605. Inpatient Facilities Operated by the Office of the Secretary

A. The following admission requirements apply to New Orleans Home and Rehabilitation Center and Villa Feliciana Medical Complex, both of which are long term care facilities operated by the Office of the Secretary.

B. Initial Requirements for Admission Consideration

1. The person has a medical condition(s) that require the supervision and treatment in a facility that provides 24-hour nursing care.

2. Pre-admission screening procedures for the Medicaid program must be followed to ensure appropriateness of admission.

C. Facilities Admission Criteria:

1. the person's medical/rehabilitation needs can be met within the resources and staffing available at the facilities;

2. the admission does not exceed the capacity, the services and/or population for which the facility is budgeted and operated; and

3. a means of financing the cost of care for each person admitted is available.

D. Exclusions

1. Persons who are dangerous to self and others, or who are charged with a crime, and who require the availability of a secure and locked area in order to ensure the safety and well being of other residents and employees of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:

§1607. Inpatient Mental Health Facilities Operated by the Office of Mental Health

A. In order to be admitted a person must qualify as a candidate for services in an inpatient setting as indicated on a published Level of Functioning Scale or other instrument identified by the Office of Mental Health as clinically appropriate. Such Level of Functioning Scale must be based on scientifically accepted practice standards and must demonstrate adequate psychometric properties of validity and reliability. The person must also meet the standard for inpatient care as specified in the Office of Mental Health Single Point of Entry (SPOE) Admissions Criteria, which is specified in the following.

B. Adult Admission Criteria. At least one criterion from Severity of Illness must be met and all of the Intensity of Service Criteria must be met.

1. Severity of Illness Criteria (Must meet one or more of a, b, or c)

a. Patient presents as a danger to self as evidenced by:

i. a suicide attempt within the past 72 hours; or
ii. documentation that the patient has a current suicide plan, specific suicide intent, or recurring suicidal ideation; or

iii. documentation of self-mutilative behavior occurring within the past 72 hours.

b. Patient presents as a danger to others due to a DSM Axis I diagnosis as evidenced by any of the following:

i. dangerously aggressive behavior during the past seven days due to a DSM Axis I diagnosis; or

ii. threats to kill or seriously injure another person with the means to carry out the threat and the threatening behavior is due to a DSM Axis I diagnosis; or

iii. documentation that the patient has a current homicidal plan, specific homicidal intent, or recurrent homicidal ideation and this is due to a DSM Axis I diagnosis.

c. Patient is gravely disabled and unable to care for self due to a DSM Axis I diagnosis as evidenced by:

i. documentation of a serious impairment in function (as compared to others of the same age) in one or more major life roles (school, job, family, interpersonal relations, self-care, etc.) due to a DSM Axis I diagnosis; and

ii. patient presents with acute onset or acute exacerbation of hallucinations, delusions, or illusions of such magnitude that the patient's well being is threatened; or

iii. an inability of the patient to comply with prescribed psychiatric and/or medical health regimens as evidenced by the following:

(a). patient has a history of de-compensation without psychotropic medications and patient refuses to use these medications as an outpatient; or

(b). patient is at risk of health or life due to non-compliance with medical regimens (e.g., insulin-dependent diabetes, etc.) and patient refuses these medical regimens as an outpatient.

2. Intensity of Service Criteria

a. Treatment of the patient's psychiatric condition requires services on an inpatient hospital basis. These services include, but are not limited to:

i. suicide precautions, unit restrictions, and continual observation and limiting of behavior to protect self or others;

ii. active intervention by a psychiatric team to prevent assaultive behavior;

iii. 24 hour observation and medication stabilization necessitated by patient behaviors that indicate a therapeutic level of medication has not been reached; and

iv. services provided in the hospital can reasonably be expected to improve the patient's condition or prevent further regression so that the services will no longer be needed by the patient; and

v. services in the community do not meet, and/or do not exist to meet the treatment needs of the patient, or the patient has been unresponsive to treatment at a less intensive level of care.

C. Children's Admission Criteria. At least one criterion from Severity of Illness must be met, and all of the Intensity of Service Criteria must be met.

1. Severity of Illness Criteria (Must meet one or more of a, b, or c)

a. The child is a danger to self. (Indicators i, ii, or iii and iv must exist to meet this criterion)

i. The child has made an attempt to take his/her own life in the last 24 hours. Details of the attempt must be documented; or

ii. the child has demonstrated self-mutilative behavior within the past 24-hours. Details of behavior must be documented; or

iii. the child has a clear plan to seriously harm him/herself, overt suicidal intent, recurrent suicide thoughts, and lethal means available to follow the plan. This information can be from the child or a reliable source. Details of the plan must be documented; and

iv. it is the judgment of a mental health professional that the child is at significant risk of making a suicide attempt without immediate inpatient intervention.

b. The child is a danger to others or property due to a DSM Axis I diagnosis as indicated by: (Indicators i, ii, or iii and iv must exist and include the specific DSM criteria that justify this diagnosis).

i. the child has actually engaged in behavior harmful or potentially harmful to others or caused serious damage to property, which would pose a serious threat of injury, or harm to others within the last 24 hours. Description of the behavior and extent of injury or damage must be documented, as well as the time the behavior occurred relative to present; or

ii. the child has made threats to kill or seriously injure others or seriously damage property, which would pose a threat of injury or harm to others, and has effective means to carry out the threats. Details of the threats must be documented; or

iii. a mental health professional has information from the child or a reliable source that the child has a current plan, specific intent, or recurrent thoughts to seriously harm others or property. Details must be documented; and

iv. it is the judgment of a mental health professional that the child is at a significant risk of making a homicide attempt or engaging in other seriously aggressive behavior without immediate inpatient intervention.

c. The child is gravely disabled due to a DSM Axis I diagnosis as indicated by: (Indicators i, and either ii, iii or iv must exist and include the specific DSM criteria that justify this diagnosis.)

i. the child has serious impairment of functioning compared to others of the same age in one or more major life roles (school, family, interpersonal relations, self-care, etc.) Specific descriptions of the following must be documented:

(a). deficits in control, cognition or judgment;

(b). circumstances resulting from those deficits in self-care, personal safety, social/family functioning, academic or occupational performance;

(c). prognostic indicators which predict the effectiveness of acute treatment; and

ii. the acute onset of psychosis or severe thought disorganization or clinical deterioration has rendered the child unmanageable and unable to cooperate in non-hospital treatment; or

iii. there is a need for medication therapy or complex diagnostic testing where the child's level of functioning precludes cooperation with treatment in an outpatient or non-hospital based regimen, and may require close supervision of medication and/or forced administration of medication; or

iv. a medical condition co-exists with DSM Axis I diagnosis which, if not monitored/treated appropriately, places the child's life or well being at serious risk.

2. Intensity of Service Criteria

a. Treatment of the patient's psychiatric condition requires services on an inpatient hospital basis. These services include, but are not limited to:

i. suicide precautions, unit restrictions, and continual observation and limiting of behavior to protect self or others;

ii. active intervention by a psychiatric team to prevent assaultive behavior;

iii. 24 hour observation and medication stabilization necessitated by patient behaviors that indicate a therapeutic level of medication has not been reached; and

iv. services provided in the hospital can reasonably be expected to improve the patient's condition or prevent further regression so that the services will no longer be needed by the patient; and

v. services in the community do not meet, and/or do not exist to meet the treatment needs of the patient, or the patient has been unresponsive to treatment at a less intensive level of care.

D. Exclusionary Criteria-Adult. If one or more of the following is met, admission is denied.

1. Patient has a major medical or surgical illness or injury that would prevent active participation in a psychiatric treatment program. (Patients must be medically stable.)

2. Patient has criminal charges pending and does not have a DSM Axis I diagnosis.

3. Patient has anti-social behaviors that are a danger to others and those anti-social behaviors are characterological rather than due to a DSM Axis I diagnosis.

4. Patient has a DSM Axis II diagnosis of mental retardation without an accompanying DSM Axis I diagnosis.

5. Patient has a Substance Abuse Disorder as defined in DSM without symptoms of a mental disorder.

E. Exclusionary Criteria-Children. If one or more of the following is met, admission is denied.

1. The child has a major medical or surgical illness or injury that prevents active participation in a psychiatric treatment program.

2. The child has criminal charges pending and does not meet severity of illness and intensity of service criteria.

3. The child has anti-social behaviors that are a danger to others and does not have a DSM Axis I diagnosis.

4. The child has a DSM Axis II diagnosis of mental retardation and does not meet severity of illness and intensity of service criteria.

5. The child lacks a place to live and/or family supports and does not meet severity of illness and intensity of service criteria.

6. The child has been suspended or expelled from school and does not meet severity of illness and intensity of service criteria.

7. The child has a substance abuse disorder as defined in DSM without symptoms of a mental disorder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:

§1609. Intermediate Care Facilities/Mental Retardation (ICF/MR) Facilities Operated by the Office of Mental Health

A. Referral for persons not currently residents of an ICF/MR facility should come through the State Office for Citizens with Developmental Disabilities (OCDD) Regional Office System responsible for serving the individual but referrals from other community sources or the individual's family will also be considered. Persons seeking admission or for whom admission is sought to an ICF/MR facility must meet the following admissions criteria:

1. age 18 years or above;
2. DSM diagnosis of Mental Retardation and/or Developmental Disability;
3. DSM diagnosis of mental illness;
4. can reasonably be expected to benefit from Community Home (CH) active treatment program;
5. must demonstrate compatibility with the physical, cognitive, social and behavioral development exhibited by the individuals in the home where the applicant is to reside and also in the day program as indicated by a published Level of Functioning Scale or other instrument identified by the Office of Mental Health (OMH) as clinically appropriate. Such Level of Functioning Scale must be based on scientifically accepted practice standards and must demonstrate adequate psychometric properties of validity and reliability;
6. must be certifiable for SSI and Medicaid Services;
7. must demonstrate ability to control self and not present a danger to self or others as evidenced by a lack of suicide attempts, suicide plans or self-injurious behaviors within the last three months, and a lack of aggressive behaviors or threatening behaviors towards others within the last three months; and
8. must volunteer for admission and agree to follow Rules and actively participate in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:

§1611. The Office for Citizens with Developmental Disabilities (OCDD)

A. The following admission requirements apply to the developmental centers and community- homes operated by the OCDD.

1. Initial Requirements for Admission Consideration
 - a. The person must meet the criteria for participation in the Mental Retardation/Developmental Disabilities (MR/DD) Services System in Louisiana's MR/DD law. The person's generic service plan (Plan of Support) must contain a recommendation for admission to an Intermediate Care Facility for the Mentally Retarded. The plan must also document the team (which includes the individual and/or family) consideration of what meets the individual's needs, and no more, and the most natural living option available, consistent with an individual's community peers.

2. Residential Facilities Admission Criteria

a. The person has mental retardation or a related condition and has additional complex medical or behavioral needs; and

b. the person's programmatic and supervisory needs as established in the person's Individual Program Plan (IPP) can be met within the resources and staffing available at the developmental center or community home; and

c. the person's age and sex as well as physical, cognitive, social and behavioral development are compatible with the individuals currently residing within the developmental center or community home wherein the vacancy exists; and

d. the admission does not exceed the capacity, the services and/or population for which the facility is licensed.

3. Exclusions:

a. persons who cannot benefit from active treatment services in an Intermediate Care Facility for the Mentally Retarded (ICF-MR);

b. persons who have a primary diagnosis of mental illness;

c. persons who are dangerous to self or others, or are charged with a crime, and who require the availability of a secure and locked area in order to ensure the safety and well being of other residents and employees of the developmental center or community home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:

§1613. Inpatient Substance Abuse Treatment Programs Operated by the Office for Addictive Disorders

A. Admissions

1. Admission to primary treatment centers will be from a statewide population.

2. Any client exhibiting major medical symptoms or major psychiatric symptoms, indicating immediate need, will be referred for services of an acute care hospital or acute psychiatric unit. Once stabilized, OAD will evaluate for admission to an inpatient treatment program.

B. Eligibility Criteria

1. The client must have been screened by a single point of entry, which includes:

a. OAD Outpatient or Detoxification Programs or other programs approved by the accepting facility;

b. have a primary diagnosis of no less than alcohol abuse, drug abuse, or compulsive gambling;

c. have a recent history of uncontrollable alcohol or drug use or compulsive gambling and have been unable to remain drug-free through outpatient intervention; or

d. have been unable to access outpatient services due to unavailability related to distance and transportation; and

2. the client shall be involved in an intensive outpatient substance abuse treatment program while awaiting placement in an inpatient facility. If intensive treatment is not available at the referring clinic, the client should be evaluated and provided the maximum level of services available while awaiting admission;

3. the patient who is appropriately admitted to an inpatient program meets specifications in two of the six dimensions, at least one of which is in Dimension 1,2, or 3.

a. Dimension 1: Acute Intoxication and/or Withdrawal. The patient has no signs or symptoms of withdrawal, or his or her withdrawal needs can be safely managed in a inpatient program setting.

b. Dimension 2: Biomedical Conditions and Complications. The patient's status in Dimension 2 is characterized by one of the following.

i. The interaction of the patient's biomedical condition and continued alcohol or other drug use places the patient in imminent danger of serious damage to physical health or concomitant biomedical conditions (such as pregnancy with vaginal bleeding or ruptured membranes).

ii. A current biomedical condition requires 24-hour nursing and medical monitoring or active treatment, but not the full resources of an acute care hospital. The patient who has a biomedical problem that requires a degree of staff attention (such as monitoring of medications or assistance with mobility) that is not available on other inpatient programs is in need of Biomedical enhanced services.

c. Dimension 3: Emotional, Behavioral, or Cognitive Conditions and Complications. Problems in Dimension 3 are not necessary for admission to an inpatient program. However, if any of the Dimension 3 conditions are present, the patient must be admitted to a Dual Diagnosis Enhanced program (depending on his or her level of function, stability, and degree of impairment).

i. The patient's psychiatric condition is unstable. Depression and/or other emotional, behavioral, or cognitive symptoms (which may include compulsive behaviors, suicidal or homicidal ideation with a recent history of attempts but no specific plan, or hallucinations and delusions without acute risk to self or others) are interfering with abstinence, recovery, and stability to such a degree that the patient needs a structured 24-hour, medically monitored (but not medically managed) environment to address recovery efforts; or

ii. the patient exhibits stress behaviors associated with recent or threatened losses in work, family, or social domains, to a degree that his or her ability to manage the activities of daily living are significantly impaired. The patient thus requires a secure, medically monitored environment in which to address self-care problems (such as those associated with eating, weight loss, sleeplessness or personal hygiene) and to focus on his or her substance abuse or mental health problems; or

iii. the patient has significant functional deficits that require active psychiatric monitoring. They may include-but are not limited to- problems with activities of daily living, problems with self-care, lethality or dangerousness, and problems with social functioning. These deficits may be complicated by problems in Dimensions 2 through 6; or

iv. the patient is at moderate risk of behaviors endangering self, others, or property, and is in imminent danger of relapse (with dangerous emotional, behavioral, or cognitive consequences) without 24-hour support and structure of an inpatient program; or

v. the patient is actively intoxicated, with resulting violent or disruptive behavior that poses imminent danger to self or others; or

vi. the patient has a thought disorder or cognitive limitations that require stabilization but not medical management.

d. Dimension 4: Readiness to Change. The patient's status in Dimension 4 is characterized by one of the following:

i. despite experiencing serious consequences or effects of the addictive disorder or mental health problem, the patient does not accept or relate the addictive disorder to the severity of these problems; or

ii. the patient is in need of intensive motivation strategies, activities, and processes available only in a 24-hour structured, medically monitored setting; or

iii. the patient needs ongoing 24-hour psychiatric monitoring to assure persistence with the treatment regimen and to deal with issues such as ambivalence about compliance with psychiatric medications.

e. Dimension 5: Relapse, Continued Use, or Continued Problem Potential. The patient's status in Dimension 5 is characterized by one of the following.

i. The patient is experiencing acute psychiatric or substance use crisis, marked by intensification of symptoms of his or her addictive or mental disorder (such as difficulty postponing immediate gratification, drug-seeking behavior, or increasing severity of anxiety or depressive symptoms). This situation poses an imminent danger of harm to self or others in the absence of 24-hour monitoring and structured support; or

ii. the patient is experiencing an escalation of relapse behaviors and/or reemergence of acute symptoms. This situation poses an imminent danger of harm to self or others in the absence of the type of 24-hour monitoring and structured support found in a medically monitored setting; or

iii. the modality of treatment or protocols to address relapse (such as aversion therapy and similar behavioral therapy techniques) require that the patient receive care in an inpatient program.

f. Dimension 6: Recovery Environment. The patient's status in Dimension 6 is characterized by one of the following.

i. The patient requires continuous medical monitoring while addressing his or her substance use and/or psychiatric problems because his or her current living situation is characterized by a high risk of initiation or repetition of physical, sexual, or emotional abuse, or substance abuse so endemic that the patient is assessed as being unable to achieve or maintain recovery at a less intensive level of care. For example, because of mania (which is treated with mood stabilizing medications), the patient believes he or she is able to control the people in his or her environment who pose the risk; or

ii. family members or significant others living with the patient are not supportive of his or her recovery goals and are actively sabotaging treatment. This situation requires structured treatment services and relief from the home environment in order for the patient to focus on recovery; or

iii. the patient is unable to cope, for even limited periods of time, outside of 24-hour care. The patient needs staff monitoring to learn to cope with Dimension 6 problems before he or she can be transferred safely to a less intensive setting.

C. Incarcerated Individuals

1. Persons referred for inpatient care who are incarcerated at the time of referral must meet the above criteria and be eligible for full release from incarceration within 15 days after the planned admission to an inpatient unit, or otherwise be able to participate in any and all follow-up recovery programs which would be recommended within a continuum of care treatment plan, including aftercare, half-way house, and self-help support groups.

2. Persons being detained in criminal justice programs who are awaiting arraignment, trial or post-trial sentencing must meet the above criteria and have an agreement from the District Attorney, prosecuting attorney, or trial judge.

a. This agreement must be binding on the client and provide the client with assurance of ability to participate in continuum of care as recommended by the treatment team, unless the client violates any judicial agreement, or condition placed upon him and in effect during the term of recommended treatment.

3. Clients are not to be admitted who are subject to return to incarceration during the period of recommended treatment, including after-care, absent a new violation, infraction of probation or condition of suspension, or charge being filed.

D. Special Populations

1. Treatment facilities shall make arrangements for the temporary employment of staff/equipment/specialized services which may be reasonably needed in order for the program to adequately serve persons with special needs or physical disabilities, specifically, but not limited to, the hearing and speech impaired.

a. Specialized service arrangements will be within reason and only when similar services are not available through an alternate resource for which the client is eligible and/or entitled. Funding for the specialized service must have prior approval of the Assistant Secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20 and R.S. 28:311(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:

Interested persons may submit written comments to Patricia A. Faxon, Program Manager, Office of the Secretary, P.O. Box 629, Baton Rouge, LA 70821-0629. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule will be held on Monday, November 24, 2003 in the Wade O. Martin Auditorium of the Louisiana State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Admissions Criteria for
Inpatient Facilities**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that the cost to the state will be approximately \$8,16.00 in publishing costs to implement this proposed Rule in FY 2004. There are no other implementation costs associated with this proposed Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule is being proposed to implement the requirements of Act 1249 of the 2003 Regular Session, which sets out the admissions criteria for those inpatient facilities operated by DHH. The criteria are specific to each DHH Office that operated inpatient facilities and no person shall be admitted voluntarily, involuntarily, by court order, or by commitment to a department facility unless the person meets the criteria set forth in the proposed Rule. This is a new departmental policy relative to Act 1249.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed Rule will have no effect on competition and employment.

David W. Hood
Secretary
0310#092

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid Eligibility—Disregard of Assets

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted the state and federal requirements governing the determination of eligibility of persons applying for coverage under the Qualified Medicare Beneficiary, Specified Low Income Medicare Beneficiary and the Qualified Individual-1 Programs as identified under Title XIX of the Social Security Act. These are commonly referred to as the Medicare Savings Programs. Medicaid coverage under these programs is limited to payment of Medicare premiums, deductibles and co-insurance. The applicant's resources are currently considered in the determination of Medicaid eligibility. Resources are defined as cash assets or assets that

can be converted to cash, such as bank accounts, stocks, bonds, automobiles and property. Under Section 1902(r)(2) of the Social Security Act, states are allowed to use less restrictive resource methodologies in determining eligibility for most Medicaid eligibility groups than are used by the related cash assistance program. In order to reduce the administrative burden for Medicaid staff, to reduce premature Medicaid spending at nursing facilities and charity hospitals, and to eliminate financial hardship for low income Medicare beneficiaries, the bureau proposes to eliminate the consideration of resources in determining eligibility for the Medicare Savings Programs.

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 will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972. It is anticipated that the proposed Rule will improve financial security for certain elderly and disabled Medicare beneficiaries. Retention of assets would result in those assets being available to purchase needed medications and medical treatment.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the current policy governing the consideration of resources in determining eligibility for the Medicare Savings Programs.

Utilizing provisions allowed under Section 1902(r)(2) of the Social Security Act, consideration of resources will be eliminated in the determination of Medicaid eligibility for the Qualified Medicare Beneficiary, Specified Low Income Beneficiary and Qualified Individuals -1 Programs.

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 24, 2003 at 9:30 am in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Medicaid Eligibility
Disregard of Assets**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$46,451 for SFY 2003-2004, \$336,679 for SFY 2004-2005 and \$694,626 for SFY 2005-2006. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in SFY 2003-2004 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 increase federal revenue collections by approximately \$116,608 for SFY 2003-2004, \$846,311 for SFY 2004-2005 and \$1,746,084 for SFY 2005-2006. It is anticipated that \$102 will be expended in SFY 2003-2004 for the federal expense for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The assets of elderly and disabled individuals (approximately 1,400) who make too much money to qualify for Medicaid, but make too little to comfortably pay Medicare premiums, deductibles, and co-payments will no longer be considered in determining eligibility for the Qualified Medicare Beneficiary, Specified Low Income Medicare Beneficiary and the Qualified Individual-1 Programs. This proposed Rule will disregard assets of \$4,000 for individuals and \$6,000 for couples in determining eligibility. Implementation of this proposed Rule will increase the number of eligible participants by eliminating eligibility for the Medicare savings programs and thereby increase expenditures by approximately \$162,855 for SFY 2003-2004, \$1,182,990 for SFY 2004-2005 and \$2,440,710 for SFY 2005-2006.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben Bearden
Director
0310#062

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Medicaid Eligibility/Medically Needy Program
Incurred Deductions**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to promulgate the following Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule promulgating the Medicaid Eligibility Manual in its entirety by reference in May of 1996 (*Louisiana Register, Volume 22, Number 5*). Medically Needy Program is an optional eligibility group under Title XIX of the Social Security Act Section 1902(a)(10) and 42 CFR Subpart D Section 435.300. The Medically Needy eligibility group includes those individuals or families who meet all AFDC or SSI related categorical requirements and whose income is within the Medically Needy Income Eligibility Standard. It also includes those individuals or families whose resources fall within the categorical limits, but whose income is above the Medically Needy Income Eligibility Standard. These individuals or families having income in excess of the Medically Needy Income Eligibility Standard can reduce excess income by incurring medical and/or remedial care

expenses. This method used for determining eligibility is referred to as spend-down. A state may choose to exclude from incurred expenses those bills for services furnished more than three months before the Medicaid application is filed for initial eligibility or in the case of a renewal more than three months before the first month of the new budget period or quarter of coverage. A state is required to deduct any current payment on such excluded expenses.

In compliance with Executive Order MJF 02-29, the department promulgated an Emergency Rule that amended the policy governing the consideration of incurred expenses in the eligibility determination process for the Medically Needy eligibility (*Louisiana Register, Volume 29, Number 1*). This proposed Rule is being promulgated to continue the provisions contained in the January 1, 2003 Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a negative impact for those individuals or families who may no longer qualify for Medicaid coverage as a result of the implementation of this proposed Rule.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing deductions for incurred medical expenses in the eligibility determination process for the Medically Needy eligibility group. Those bills for necessary medical and remedial services furnished more than three months before the Medicaid application is filed or more than three months before the first month of a new budget period or quarter of coverage for renewals will be excluded as an incurred expense. Current payments on excluded expenses will be allowed as an incurred expense.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 24, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medicaid EligibilityC Medically Needy ProgramC Incurred Deductions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will result in a reduction of expenditures of \$504,178 for SFY 2002-2003, \$895,630 for SFY 2003-2004 and \$922,639 for SFY 2004-2005. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in SFY 2003-2004 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 result in a reduction of federal revenue collections of \$1,236,769 for SFY 2002-2003, \$2,251,553 for SFY 2003-2004 and \$2,319,240 for SFY 2004-2005. It is anticipated that \$136 will be expended in SFY 2003-2004 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule will amend the policy governing the consideration of incurred expenses in the eligibility determination process for the Medically Needy Program. It is anticipated that implementation of this proposed Rule will reduce the number of eligible Medically Needy spend-down recipients. It is anticipated that implementation of this proposed Rule will reduce expenditures in the Medically Needy Program by \$1,740,947 for SFY 2002-2003, \$3,147,455 for SFY 2003-2004 and \$3,241,879 for SFY 2004-2005.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the proposed Rule will have no effect on competition or employment.

Ben Bearden
Director
0310#088

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

Mental Health Rehabilitation ProgramCSanctions

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule, effective June 20, 1996 that restructured the Mental Health Rehabilitation (MHR) Program and established provisions governing recipient eligibility, service delivery requirements and reimbursement methodology (*Louisiana Register, Volume 22, Number 6*). The June 20, 1996 Rule was amended to revise provider participation requirements by establishing enrollment and certification criteria (*Louisiana Register, Volume 24, Number 7*). The certification criteria included the suspension and/or termination of provider certification. The bureau promulgated an Emergency Rule to amend the July 20, 1998 Rule by revising the provisions governing the grounds and levels of sanctions and the notice and appeal procedures (*Louisiana Register, Volume 29, Number 10*). This Rule is being promulgated to continue the provisions of the October 20, 2003 Emergency Rule.

The text of this proposed Rule may be viewed in the Emergency Rule portion of this edition of the *Louisiana Register*.

NOTICE OF INTENT

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

**Non-Emergency Medical Transportation Services
Reimbursement Increase**

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.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 24, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Mental Health Rehabilitation
ProgramC Sanctions**

**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 impact to the state general fund other than cost of promulgation for SFY 2003-2004. It is anticipated that \$408 (\$204 SGF and \$204 FED) will be expended in SFY 2003-2004 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 affect federal revenue collections other than the federal share of the promulgation costs for SFY 2003-2004. It is anticipated that \$204 will be expended in SFY 2003-2004 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This Rule proposes to revise the provisions relative to grounds and levels of sanctions and to the notice and appeals process for providers participating in the Mental Health Rehabilitation Program. It is anticipated that implementation of this proposed Rule may have an economic cost for mental health rehabilitation agencies if the agency commits one of the actions cited in the grounds for sanctions.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This Rule has no known impact on competition and employment.

Ben A. Bearden
Director
0310#090

H. Gordon Monk
Staff Director
Legislative Fiscal Office

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to promulgate the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for non-emergency medical transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay.

As a result of the allocation of additional funds by the Legislature during the 2003 Regular Session, the bureau increased the reimbursement fees for certain designated procedures (*Louisiana Register, Volume 29, Number 7*). The bureau subsequently amended the August 1, 2003 Emergency Rule to clarify the intent of provisions contained in the Emergency Rule (*Louisiana Register, Volume 29, Number 9*). This Rule is being promulgated to continue the provisions contained in the August 1, 2003 and September 12, 2003 Emergency Rules.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for the following designated procedures for non-emergency medical transportation services by 20 percent of the rate in effect on July 31, 2003. Non-emergency medical transportation provided by friends and family is not included in this reimbursement increase.

- Profit-Local Trip
- Capitated Regular-Urban
- Capitated Regular-Rural
- Enhanced Capitated->5 Trips Per Week
- Capitated Remote-Rural
- Capitated Wheelchair-Rural
- Capitated Wheelchair-Urban
- Local Profit-Wheelchair
- Local Nonprofit-Wheelchair
- Nonprofit-Local Trip

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 24, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Non-Emergency Medical
Transportation Services C Reimbursement Increase**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$358,299 for SFY 2003-2004, \$402,483 for SFY 2004-2005 and \$414,558 for SFY 2005-2006. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in SFY 2003-2004 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$900,503 for SFY 2003-2004, \$1,011,723 for SFY 2004-2005 and \$1,042,075 for SFY 2005-2006. It is anticipated that \$102 will be expended in SFY 2003-2004 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed Rule increases the reimbursement fees (approximately 20 percent) for certain designated procedures for non-emergency medical transportation services. It is anticipated that the implementation of this proposed Rule will increase expenditures to providers of non-emergency medical transportation services by approximately \$1,258,598 for SFY 2003-2004, \$1,414,206 for SFY 2004-2005 and \$1,456,633 for SFY 2005-2006.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no known effect on competition or employment.

Ben A. Bearden
Director
0310#063

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**

Physician Services C Gastric Bypass Surgery

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to promulgate the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently provides reimbursement for gastric bypass surgery for certain diagnoses. The bureau proposes to establish provisions governing recipient qualifications, covered services and reimbursement for gastric bypass surgery.

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 should have a positive impact on family functioning as described in R.S. 49:972 as it will provide alternative treatments for obesity.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following criteria for gastric bypass surgery.

Recipient Qualifications

- A. To qualify for gastric bypass surgery, a recipient shall:
1. be a minimum of 16 years of age;
 2. have a documented weight in the morbidly obese range as defined by a body mass index greater than 40;
 3. have at least three failed efforts at medical therapy and is suffering from the complications of extreme obesity;
 4. have current obesity-related medical conditions which are classified as being very high risk for morbidity and mortality;
 5. not have a major psychiatric diagnosis as the cause of his/her obesity or which will act as a deterrent to successful treatment as evidenced by the results of a psycho-social evaluation;
 6. not be currently abusing alcohol or other substances; and
 7. be capable of complying with the modified food intake regimen and follow-up program which will come after surgery.

B. Exceptions will not be authorized for recipients who fail to meet all of the above criteria.

Covered Services

A. A letter documenting medical necessity from the recipient's physician must be submitted with the request for surgery.

B. The following gastric bypass surgery procedures are covered for reimbursement:

1. Gastroplasty, Vertical-Banded;
2. Gastroplasty, other than Vertical-Banded;
3. Gastric Bypass with Roux-EN-Y Gastro;
4. Gastric Bypass for Obesity; and
5. Revision Gastroplasty.

C. A *lipectomy*—the surgical removal of fatty tissue, and a *panniculectomy*—the surgical removal of the abdominal apron containing superficial fat, shall be considered for authorization if the surgery:

1. is determined to be medically necessary; and
2. is being performed to correct an illness which was caused or aggravated by the pannus.

D. In order for either of the above procedures to be authorized, documentation must be submitted to support that the recipient has at least one of the following indications:

1. intertriginous infections with documented evidence of serious problems with intertriginous infection control;
2. the apron of the panniculus interferes with ambulation; or
3. the panniculus is causing prolapse of a ventral hernia.

E. Photographs must be submitted with the request for consideration of gastric bypass surgery.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 24, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Physician Services

Gastric Bypass Surgery

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no costs to the state as a result of implementation of this proposed Rule. It is anticipated that \$340 (\$170 SGF and \$170 FED) will be expended in SFY 2003-2004 for the 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 affect federal revenue collections. \$170 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Medicaid currently provides reimbursement for gastric bypass surgery for certain diagnoses. This proposed Rule establishes objective provisions, recipient criteria, covered services and reimbursement for gastric bypass surgery. It is anticipated that implementation of this proposed Rule will not have estimable cost or economic benefits for SFY 2003-2004, 2004-2005 and 2005-2006.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition or employment as a result of the implementation of this proposed Rule.

Ben A. Bearden
Director
0310#091

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**

**Public Nursing Facilities CReimbursement Methodology
(LAC 50:VII.1309)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 694 of the 2001 Regular Session of the Louisiana Legislature mandated that the Department of Health and Hospitals establish a case-mix reimbursement methodology for nursing homes. In accordance with Act 694, the bureau repealed the June 20, 1984 Rule and established a new reimbursement methodology based on a case-mix price-based reimbursement system for private and public nursing facilities (*Louisiana Register, Volume 28, Number 8*). The department subsequently promulgated an Emergency Rule revising the reimbursement methodology for state-operated nursing facilities in order to reimburse these facilities in accordance with the Medicare upper payment limit (*Louisiana Register, Volume 28, Number 11*). The bureau later promulgated an Emergency Rule amending the provisions contained in the August 20, 2002 Rule governing the reimbursement methodology for public nursing facilities. In addition, the bureau repealed the October 14, 2002 Emergency Rule (*Louisiana Register, Volume 29, Number 1*). This Rule is being promulgated to continue the provisions contained in the January 1, 2003 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions contained in the August 20, 2002 Rule governing the reimbursement methodology for public nursing facilities.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1309. State-Owned or Operated and Nonstate

Government-Owned or Operated Facilities

A. Nonstate government-owned or operated nursing facilities will be paid a prospective reimbursement rate. Each facility will receive a Medicaid base rate calculated in accordance with other sections of this Rule. Nonstate government-owned or operated nursing facilities may also receive a supplemental Medicaid payment on a quarterly basis. The aggregate supplemental payments for these facilities, calculated on a quarterly basis, will be the state's best estimate of what nonstate government-owned or operated facilities would be paid under Medicare's prospective payment system for skilled nursing facilities less the aggregate Medicaid base payments for these facilities. The acuity measurements used in the supplemental Medicaid payment calculations will be the acuity of each facility's Medicaid residents, as determined under Medicare's 44 RUG classification methodology. Adjustments to the aggregate supplemental Medicaid payments will be made to account for differences in coverage between the Medicare and Medicaid programs.

B. State-owned or operated nursing facilities will be paid a prospective reimbursement rate. The payment rate for each of these facilities will be the nursing facility's allowable cost from the most recent filed Medicaid cost report trended forward to the midpoint of the rate year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1476 (June 2002), repromulgated LR 28:1793 (August 2002), amended LR 30:

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 24, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Public Nursing FacilitiesC Reimbursement Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$167,910 for SFY 2002-2003, \$408,044 for SFY 2003-2004 and \$420,145 for SFY 2004-2005. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in SFY 2003-2004 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 increase federal revenue collections by approximately \$411,890 for SFY 2002-2003, \$1,025,494 for SFY 2003-2004 and \$1,056,119 for SFY 2004-2005. \$136 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the payment methodology for two state-owned public nursing facilities, based on a case-mixed priced-based reimbursement system for private and public nursing facilities. This Rule is being promulgated to continue the provisions contained in the January 1, 2003 emergency Rule. It is anticipated that implementation of this proposed Rule will increase payments to these two public nursing facilities by \$579,800 for SFY 2002-2003, \$1,433,266 for SFY 2003-2004 and \$1,476,264 for SFY 2004-2005.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition or employment as a result of the implementation of this proposed Rule.

Ben Bearden
Director
0310#065

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

Psychiatric Residential Treatment Facilities Licensure (LAC 48:I.Chapter 90)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 48:I.Chapter 90 as authorized by R.S. 40:2181-2191. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The services of a psychiatric residential treatment facility may be provided to an emotionally disturbed individual under the age of 21 who has dysfunctional behaviors and/or psychiatric conditions which prevent or jeopardize residency with the family or in a setting less restrictive than therapeutic out-of-home care. The individual does not

require acute care, but does require supervision and specialized interventions on a 24-hour basis to attain a level of functioning that allows subsequent treatment in a less restrictive setting.

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 will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972. It is anticipated that this proposed Rule will promote the health and welfare of eligible recipients by ensuring their access to appropriate therapeutic residential intervention services.

Title 48

PUBLIC HEALTHC GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 90. Psychiatric Residential Treatment

Facilities (under 21)

Subchapter A. General Provisions

§9001. Purpose

A. The purpose of this Chapter 90 is to provide for the development, establishment and enforcement of statewide standards for the care of residents in Psychiatric Residential Treatment Facilities (PRTFs) participating in the Louisiana Medicaid Program, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensure which shall promote safe and adequate treatment of residents of PRTFs participating in the Louisiana Medicaid Program.

B. In addition to requirements stated herein, all licensed PRTFs shall comply with applicable local, state, and federal laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§9003. Definitions

A. The following defines selected terminology used in connection with this Chapter 90.

AbuseCany one of the following acts which seriously endangers the physical, mental or emotional health of the resident:

a. infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the resident;

b. exploitation or overwork of a resident;

c. involvement of the resident in sexual activity constituting a crime under the laws of this state.

AccreditationCofficial notification given the provider of compliance to standards established by either:

a. the Joint Commission on Accreditation of Healthcare Organizations;

b. the Commission on Accreditation of Rehabilitation Facilities;

c. the Council on Accreditation of Services for Families and Resident; or

d. any other comparable nationally recognized accrediting organization.

AdministratorC(see *chief executive officer*)

Behavior ManagementCtechniques, measures, interventions and procedures applied in a systematic fashion

to promote positive behavioral or functional change fostering the resident's self-control, and to prevent or interrupt a resident's behavior which threatens harm to the resident or others.

Cessation of BusinessCwhen a PRTF participating in the Louisiana Medicaid Program stops providing services to the community.

Change of Ownership (CHOW)Cthe sale or transfer whether by purchase, lease, gift or otherwise of a PRTF by a person/corporation of controlling interest that results in a change of ownership or control of 30 percent or greater of either the voting rights or assets of a PRTF or that results in the acquiring person/corporation holding a 50 percent or greater interest in the ownership or control of the PRTF.

Chief Executive Officer (CEO) or AdministratorCthe person responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

Clinical DirectorCthe person who has responsibility for the psychiatric aspects of the program and who has to provide full-time coverage on an on-site or on-call basis.

CMSCCthe Centers for Medicare and Medicaid Services, Department of Health and Human Services.

Core Mental Health DisciplinesCacademic training programs in psychiatry, psychology, social work and psychiatric nursing.

DepartmentCthe Department of Health and Hospitals.

DisciplineCthe ongoing practice of helping residents develop inner control so they can manage their own behavior in an appropriate and acceptable manner.

Documentation—written evidence or proof, including signatures of appropriate staff and date, must be maintained on site and available for review.

DSSCthe Department of Social Services.

Emergency Safety InterventionCthe use of restraint or seclusion as an immediate response to an emergency safety situation.

Emergency Safety SituationCunanticipated resident behavior that places the resident or others at serious threat of violence or injury if no intervention occurs and that calls for an emergency safety intervention.

Governing BodyCthe board of trustees, owner or person(s) designated by the owner with ultimate authority and responsibility (both moral and legal) for the management, control, conduct, and functioning of the PRTF.

Group (or Unit)Crefers to the residents who share a common space and relate to one primary staff person (who may be assisted by others) on a consistent or daily basis.

HSSCthe Department of Health and Hospitals, Health Standards Section.

LicenseCthe legal authority to operate as a PRTF participating as a Louisiana Medicaid Program.

Licensed Mental Health Professional (LMHP)Can individual who meets one of the following education and experience requirements:

a. a physician duly licensed to practice medicine in the state of Louisiana and has completed an accredited training program in psychiatry; or

b. a psychologist licensed as a practicing psychologist under the provisions of R.S. 28:2351-2370; or

c. a social worker who holds a master's degree in social work from an accredited school of social work and is

a licensed clinical social worker under the provisions of R.S. 37:2701-2718, as amended; or

d. a nurse licensed as a registered nurse in the state of Louisiana by the Board of Nursing; and

i. is a graduate of an accredited master's level program in psychiatric mental health nursing with two years of post-masters supervised experience in the delivery of mental health services; or

ii. has a master's degree in nursing or a mental health-related field with two years of supervised post masters experience in the delivery of mental health services;

e. a licensed professional counselor who is licensed as such under the provision of R.S. 37:1101-1115 and has at least two years post master's supervised experience delivering services in the mental health-related field.

Mechanical Restraint Any device attached or adjacent to the resident's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body.

Mental Health Professional (MHP) Can individual who is supervised by a LMHP and meets the following criteria as documented by the provider:

a. has a Master of Social Work degree; or

b. has a Master of Arts degree, Master of Science degree or a Master of Education degree in a mental health-related field; and

i. has a minimum of 15 hours of graduate level course work and/or practicum in applied intervention strategies/methods designed to address behavioral, emotional and/or mental problems. These hours may have been obtained as a part of, or in addition to, the master's degree.

Mental Health-Related Field Academic training programs based on the principles, teachings, research and body of scientific knowledge of the core mental health disciplines. To qualify as a related field, there must be substantial evidence that the academic program has a curriculum content in which at least 70 percent of the required courses for graduation are based on the knowledge base of the core mental health disciplines. Programs which may qualify include, but are not limited to, sociology, criminal justice, nursing, marriage and family counseling, rehabilitation counseling, psychological counseling and other professional counseling.

Mental Health Service Delivery Experience mental health service delivery experience at the professional or paraprofessional level delivered in an organized mental health or psychiatric rehabilitation setting such as a psychiatric hospital, day treatment or mental health case management program or community mental health center.

Mental Health Specialist (MHS) Ca person who delivers direct care services under the direct supervision of a LMHP or MHP and who meets one or more of the following five criteria as documented by the provider:

a. has a Bachelor of Arts degree in a mental health-related field; or

b. has a Bachelor of Science degree in a mental health-related field; or

c. has a bachelor's degree and is a college student pursuing a graduate degree in a mental health-related field and has completed at least two courses in that identified field; or

d. has a high school degree or a GED and has four years experience providing direct services in a mental health, physical health, social services, education or correctional setting.

New Construction Any of the following started after January 1, 2004:

a. new buildings to be used as a PRTF;

b. additions to existing buildings to be used as a PRTF;

c. conversions of existing buildings or portions thereof for use as a PRTF;

d. alterations other than minor alterations to an existing PRTF.

Minor Ca minor as defined under state law and, for the purpose of this Chapter, includes a resident who has been declared legally incompetent by the applicable state court.

OCSC the Department of Social Services, Office of Community Services.

OSFMC the Office of State Fire Marshal.

OYDC the Department of Public Safety and Corrections, Office of Youth Development.

Personal Restraint the application of physical force, without the use of any device, for the purpose of restraining the free movement of a resident's body. The term *personal restraint* does not include briefly holding without undue force a resident in order to calm or comfort him/her, or holding a resident's hand to safely escort a resident from one area to another.

Psychiatric Residential Treatment Facility (PRTF) Ca facility other than a hospital, that provides psychiatric services, as described in 42 CFR Part 441 Subpart D, to individuals under age 21, in a residential setting.

Restraint Ca personal restraint, mechanical restraint, or drug used as a restraint as defined in this §9003.

Seclusion the involuntary confinement of a resident alone in a room or an area from which the resident is physically prevented from leaving.

Serious Injury Any significant impairment of the physical condition of the resident as determined by qualified medical personnel. This includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, and injuries to internal organs, whether self-inflicted or inflicted by someone else.

Staff those individuals with responsibility for managing a resident's health or participating in an emergency safety intervention and who are employed by the facility on a full-time, part-time or contract basis.

Time Out the restriction of a resident for a period of time to a designated area from which the resident is not physically prevented from leaving, for the purpose of providing the resident an opportunity to regain self-control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Subchapter B. Licensing

§9013. Licensing Process

A. Initial Licensing. The Department of Health and Hospitals (DHH) is the only authority for PRTFs participating in the Louisiana Medicaid Program in the State of Louisiana.

1. Any person, organization or corporation desiring to operate a PRTF shall make application to DHH on forms prescribed by the department. Such forms may be obtained from:

Hospital Program Manager
Department of Health and Hospitals
Health Standards Section (HSS)
P.O. Box 3767, Baton Rouge, LA 70821.

2. An initial applicant shall as a condition of licensing:

a. submit a completed initial PRTF packet and other required documents, including attestation in writing, that the facility is in compliance with CMS's standards governing the use of restraint and seclusion, as contained in this Chapter 90. This attestation must be signed by the facility administrator;

b. submit the required nonrefundable licensing fees by certified check or money order. No application will be reviewed until payment of the application fee. Except for good cause shown, the applicant must complete all requirements of the application process within 90 days of initial submission of the application material. Upon 10 days prior notice, any incomplete or inactive applications shall be closed. A new application will be accepted only when accompanied by a nonrefundable application fee.

3. When the required documentation for licensing is approved and the building is approved for occupancy by the OFSM, a survey of the facility by representatives of HSS shall be conducted at the department's discretion to determine if the facility meets the standards set forth in this Chapter 90.

4. No new PRTF, except one that is accredited and is licensed by DSS as a controlled intensive care facility or unit, shall accept residents until the PRTF has written approval and/or a license issued by HSS.

5. No licensed bed shall be placed in a room that does not meet all resident room licensing criteria and which has not been previously approved by HSS.

B. Issuance of License

1. The agency shall have authority to issue two licenses as described below.

a. Full License-issued only to those PRTFs that are in substantial compliance with these licensure regulations governing PRTFs. The license shall be issued by the department for a period of not more than 12 months for the premises named in the application, as determined by the department.

b. If a PRTF is not in substantial compliance with these licensure regulations, the department may issue a provisional license up to a period of six months if there is no immediate and serious threat to the health and safety of residents.

2. The PRTF license is not assignable or transferable and shall be immediately void if a PRTF ceases to operate or if its ownership changes.

C. Licensing Renewal. Licenses must be renewed at least annually. A PRTF seeking renewal of its license shall:

1. complete all forms and return them to the department at least 15 days prior to the expiration date of their current license;

2. submit the annual fees or the amounts so specified by state law. All fees shall be submitted by certified check or

money order and are nonrefundable. All state-owned facilities are exempt from fees;

3. the renewal packet shall be sent by the department to the PRTF 45 days prior to the expiration of their license. The packet shall contain all forms required for renewal of the license;

4. the PRTF shall accept only that number of residents for which it is licensed unless prior written approval has been secured from the department.

D. Display of License. The current license shall be displayed in a conspicuous place in the PRTF at all times.

E. Increases in Capacity

1. The PRTF will notify the department in writing 14 days prior to an increase in capacity.

2. The PRTF will complete the required paperwork and submit the appropriate documents.

3. A fee of \$25 plus \$5 per licensed unit being added or the amounts so specified by state law in the future shall be submitted to the department. This fee shall be paid by a certified check or money order.

4. At the discretion of the department, signed and dated attestations in compliance with these standards may be accepted in lieu of an on-site survey.

5. Written approval of the increase in capacity must be obtained before residents can be admitted to these additions.

F. Decrease in Capacity

1. The PRTF will notify the department in writing 14 days prior to the decrease in capacity.

2. The PRTF will complete the required paperwork and submit the appropriate documents.

3. A fee of \$25 or the amounts so specified by state law in the future shall be submitted to the department. This fee shall be paid by a certified check or money order.

G. Individual licenses shall not be required for separate buildings and services located on the same or adjoining grounds or attached to the main PRTF if they are operated as an integrated service of the PRTF.

H. Duplicate and Replacement Licenses. A \$5 processing fee, or the amount so specified by state law in the future, shall be submitted by the PRTF for issuing a duplicate facility license with no changes.

I. When changes to the license, such as a name change, address change or bed reduction are requested in writing by the PRTF, a fee of \$25 or the amounts so specified by state law in the future, shall be submitted.

J. Facility within a Facility

1. If more than one health care provider occupies the same building, premises, or physical location:

a. all treatment facilities and administrative offices of one health care provider shall be clearly separated from any treatment facilities or administrative offices of any other health care provider located in and/or on the same building, premises or physical location by a clearly delineated and cognizable boundary;

b. treatment facilities shall include, but not be limited to, recipient beds, wings and operating rooms;

c. administrative offices shall include, but not be limited to, record rooms and personnel offices;

d. there shall be clearly identifiable and distinguishable signage;

e. if more than one health care provider occupies the same building, premises or physical location, each such

health care provider shall have its own entrance. The separate entrance shall have appropriate signage and shall be clearly identifiable as belonging to one health care provider. Nothing prohibits a health care provider occupying the same building, premises or physical location as another health care provider from utilizing the entrance, hallway, stairs, elevators or escalators of another health care provider to provide access to its separate entrance;

f. staff of the PRTF within a hospital shall not be co-mingled with the staff of the host hospital for the delivery of services within any given shift.

K. Change of Ownership

1. Examples of Actions Which Constitute a Change of Ownership

a. Unincorporated Sole Proprietorship. Transfer of title and property to another party constitutes a 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 a change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute a change of ownership.

c. 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.

d. Leasing. The lease of all or part of the provider facility constitutes a change of ownership of the leased portion.

2. No later than 15 days after the effective date of the CHOW, the prospective owner(s) or provider representative shall submit to the department a completed application for PRTF licensing, and the bill of sale.

L. Fire Protection. All PRTFs shall comply with the Rules, established fire protection standards and enforcement policies as promulgated by the Office of State Fire Marshal, including handicapped accessibility requirements. It shall be the primary responsibility of the Office of State Fire Marshal to determine if applicants are complying with those requirements. No license shall be issued or renewed without the applicant furnishing a valid inspection report from the Office of State Fire Marshal stating that the applicant is complying with their provisions.

1. Prior to new construction, additions, conversions or major alterations, PRTFs shall submit construction documents (see N Plan Review) to the OSFM for review. All PRTFs shall submit in writing to the OSFM request for an occupancy review for Life Safety Code. This submission is to request the occupancy type they are requesting. PRTFs requesting to be reviewed and approved as a residential board and care facility by OFSM shall not have exit doors and doors of egress locked. PRTFs that are reviewed and approved as limited care facilities may be permitted to have locked doors after an appeal with OFSM.

M. Sanitation and Resident Safety. The PRTF shall comply with the Rules, Sanitary Code and enforcement policies as promulgated by the Office of Public Health (OPH). It shall be the primary responsibility of the OPH to determine if applicants are complying with those requirements. No initial license shall be issued without the

applicant furnishing a certificate from OPH stating that the applicant is complying with their provisions. A provisional license may be issued to the applicant if OPH issues the applicant a conditional certificate.

N. Plan Review. Construction documents (plans and specifications) are required to be submitted and approved by both the OFSM and the Department of Health and Hospitals as part of the licensing procedure and prior to obtaining a license.

1. Submission Plans

a. Submittal Requirements

i. One set of the final construction documents shall be submitted to the OFSM for approval. The Fire Marshal's approval letter and final inspection shall be sent to the DHH Division of Engineering and Architectural Services.

ii. One set of the final construction documents shall be submitted to DHH Division of Engineering and Architectural Services along with the appropriate review fee and a "plan review application form" for approval.

b. Applicable Projects. Construction documents require approval for the following type of projects:

- i. new construction;
- ii. new hospitals;
- iii. changes in service(s)/hospital type;
- iv. major alterations.

c. Design Criteria. The project shall be designed in accordance with the following criteria:

- i. the current edition of *NFPA 101-Life Safety Code*;
- ii. the latest adopted edition of the *International Building Code*;
- iii. the *American with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG)*, current edition;
- iii. the current Louisiana Department of Health and Hospitals' *Licensure Standards for Psychiatric Residential Treatment Facilities*;
- iv. The latest adopted edition of the *Louisiana State Plumbing Code*.

d. Construction Document Preparation

i. Construction documents submitted to DHH shall be prepared only by a Louisiana licensed architect or licensed engineer as governed by the licensing laws of the state for the type of work to be performed.

ii. Construction documents submitted shall be of an architectural or engineering nature and thoroughly illustrate the project that is accurately drawn, dimensioned, and contain noted plans, details, schedules and specifications. At a minimum the following shall be submitted:

- (a). site plans;
- (b). floor plan(s). These shall include architectural, mechanical, plumbing, electrical, fire protection, and if required by code, sprinkler and fire alarm plans;
- (c). building elevations;
- (d). room finish, door, and window schedules;
- (e). details pertaining to ADA requirements;
- (f). specifications for materials;
- (g). an additional set of basic preliminary type, legible site plan and floor plans in either 8-1/2 x 11;

8-1/2 x 14 or 11 x 17 format. (These are for use by DHH in doing the final inspection of the facility and should include legible names).

2. Waivers

a. The secretary of the DHH may, within his/her sole discretion, grant waivers to building and construction guidelines. The facility must submit a waiver request in writing to the Division of Engineering and Architectural Services. The facility must demonstrate how patient safety and quality of care offered is not comprised by the waiver. The facility must demonstrate their ability to completely fulfill all other requirements of service. DHH will make a written determination of the requests. Waivers are not transferable in an ownership change and are subject to review or revocation upon any change in circumstances related to the waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§9015. Psychiatric Residential Treatment Facility Closure

A. A cessation of business is deemed to be effective with the date on which the PRTF stopped providing services to the community as a Louisiana Medicaid Program.

1. The PRTF must notify the department in writing 30 days prior to the effective date of closure.

2. The PRTF shall submit a written plan for the disposition of resident's clinical records for approval by the department. The plan shall include the following:

a. provisions that comply with state laws on storage, maintenance, access and confidentiality of the closed PRTF's resident medical records;

b. an appointed custodian who shall provide physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction;

c. public notice on access in the newspaper, with the largest circulation, in close proximity of the closing PRTF, at least 15 days before the effective date of closure;

d. the effective date of closure.

3. The PRTF must return the original license to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§9017. Denial, Revocation or Non-Renewal of License and Appeal Procedure

A. When a facility is unable or unwilling to comply with requirements or has failed to adequately protect the health and safety of residents, the department can deny the application, revoke the license, or refuse to renew the license.

B. The department may deny an application for a license, or refuse to renew a license or revoke a license for any of the following reasons:

1. failure to be in substantial compliance with the PRTF licensure regulations;

2. failure to provide therapeutic residential intervention services essential to the care of emotionally disturbed residents;

3. failure to uphold patient rights whereby violations may result in harm or injury;

4. failure of agency to protect patients/persons in the community from harmful actions of the agency employees; including, but not limited to health and safety, coercion, threat, intimidation and harassment;

5. failure to notify proper authorities of all suspected cases of neglect, criminal activity, or mental or physical abuse which could potentially cause harm to the patient;

6. failure to maintain staff adequate to provide necessary services to current active residents;

7. failure to employ qualified personnel;

8. failure to remain fully operational at any time for any reason other than a disaster;

9. failure to submit fees including but not limited to annual fee, renewal fee, provisional follow-up fee, or change of agency address or name, or any fines assessed by DHH;

10. failure to allow entry to the PRTF or access to any requested records during any survey;

11. failure to protect patients from unsafe skilled and/or unskilled care by any person employed by the agency;

12. failure of the agency to correct violations after being issued a provisional license;

13. agency staff or owner has knowingly, or with reason to know, made a false statement of a material fact in:

a. application for licensure;

b. data forms;

c. clinical record;

d. matters under investigation by the department;

e. information submitted for reimbursement from any payment source;

f. the use of false, fraudulent or misleading advertising;

g. that the agency staff misrepresented or was fraudulent in conducting agency business;

h. convictions of a felony by an owner, administrator, or clinical director as shown by a certified copy of the record of the court of conviction of the above individual; or if the applicant is a firm or corporation, of any of its members or officers;

14. failure to comply with all reporting requirements in a timely manner; and

15. at the initial licensure survey, an agency has more than five violations of any minimum standards or if the violations are determined to be of such a serious nature that they may cause or have the potential to cause actual harm.

C. If an agency's license, whether full or provisional, is revoked, or denied renewal, and the applicant or licensee does not request an administrative reconsideration of the violation(s) which support the department's actions and/or does not appeal such action, the facility must cease operation on the effective date of the action.

D. Notice and Appeal Procedure. The applicant or licensee shall receive 30 days notice in writing of the decision and the grounds for such proposed action.

E. Administrative Reconsideration. The applicant or licensee may request an administrative reconsideration of the violation(s) which support the department's actions. This reconsideration shall be conducted by a designated

official(s) of the department who did not participate in the initial decision to impose the actions taken. Reconsideration shall be made solely on the basis of documents before the official and shall include the survey report and statement of violations and all documentation the agency submits to the department at the time of the agency's request for reconsideration. Correction of a violation shall not be a basis for reconsideration. This is not a formal hearing. Oral presentations can be made by the department's spokesperson(s) and the agency's spokesperson(s). This process is not in lieu of the appeals process and does not extend the time limits for filing an administrative appeal. The designated official shall have authority only to affirm the decision, to revoke the decision, to affirm part and revoke part, or to request additional information from either the department or the agency.

1. If an agency's license is revoked, or denied renewal and the applicant or licensee requests an administrative reconsideration and the department's decision is affirmed, and the applicant or licensee does not appeal such action, the facility must cease operation on the effective date of the designated official's decision to support the department's actions.

F. Appeal Process. Upon refusal of DHH to grant a license as provided in the current state statutes, or upon revocation or suspension of a license, or the imposition of a fine, the agency, institution, corporation, person, or other group affected by such action shall have the right to appeal such action by submitting a written request to the secretary of the department within 30 days after receipt of the notification of the refusal, revocation, suspension of a license or imposition of a fine.

1. If an agency's license is revoked, or denied renewal and the applicant or licensee requests an appeal of the department's action and the result of the appeal supports the department's action, the facility must cease operation on the effective date of the designated official's decision to support the department's action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Subchapter C. Organization and Administration

§9027. General

A. Purpose and Organizational Structure. The purpose of the PRTF shall be clearly defined in a statement filed with the department. The statement includes the:

1. program philosophy;
2. program goals and objectives;
3. ages, sex and characteristics of residents accepted for care;
4. geographical area served;
5. types of services provided;
6. description of admission policies; and
7. needs, problems, situations or patterns best addressed by the provider's program.

B. House Rules. The provider shall have a clearly written list of Rules governing conduct for residents in care and shall document that these Rules are made available to each staff member, resident, and where appropriate, the resident's parent(s) or legal guardian(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§9029. Governing Body

A. The PRTF must have either an effective governing body or individual(s) legally responsible for the conduct of the PRTF operations. No contracts/arrangements or other agreements may limit or diminish the responsibility of the governing body.

B. The governing body shall:

1. establish PRTF-wide policy;
2. adopt bylaws;
3. appoint a chief executive officer or administrator;
4. designate a psychiatrist who is either board-eligible or certified in child psychiatry as the clinical director to assume responsibility for the psychiatric aspects of the program and to provide full-time coverage on an on-site or on-call basis.
5. maintain quality of care; and
6. provide an overall institutional plan and budget.

C. The governing body and/or their designee(s) shall develop and approve policies and procedures which define and describe the scope of services offered. They shall be revised as necessary and reviewed at least annually.

D. There shall be an organizational chart that delineates lines of authority and responsibility for all PRTF personnel.

E. Representation at Hearings. The PRTF shall, when required by law, have a representative present at all judicial, educational, or administrative hearings that address the status of a resident in the care of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§9031. Administrative Policy and Records

A. Policy shall be clearly written, current, and available for residents, parents or custodians, staff, and licensing staff to review.

B. Policy shall be reviewed annually by the governing board.

C. Policy shall include, but is not limited to, areas governing:

1. admission and discharge;
2. personnel;
3. volunteers;
4. grievance procedures;
5. behavior management;
6. use of restraint and seclusion;
7. mandatory reporting of abuse;
8. administering medication;
9. confidentiality of records;
10. participation of residents in activities related to fundraising and publicity;
11. participation of residents in research projects;
12. the photographing and audio or audio-visual recording of residents; and
13. emergency procedures.

D. Admission Policy

1. The PRTF shall:

a. only accept residents for placement from the parent(s), legal guardian(s), custodial agency or a court of competent jurisdiction;

b. not admit more residents into care than the number specified on the provider's license;

c. ensure that the resident, the resident's parent(s) or legal guardian(s) and others, as appropriate, are provided reasonable opportunity to participate in the admission process and decisions. Proper consents shall be obtained before admission.

2. Notification of Facility Policy. At admission, the facility must:

a. inform both the incoming resident and, in the case of a minor, the resident's parent(s) or legal guardian(s) of the facility's policy regarding the use of restraint or seclusion during an emergency safety situation that may occur while the resident is in the program;

b. communicate its restraint and seclusion policy in a language that the resident, or his or her parent(s) or legal guardian(s) understands (including American Sign Language, if appropriate) and when necessary, the facility must provide interpreters or translators;

c. obtain an acknowledgment, in writing, from the resident, or in the case of a minor, from the parent(s) or legal guardian(s) that he or she has been informed of the facility's policy on the use of restraint or seclusion during an emergency safety situation. Staff must file this acknowledgment in the resident's record; and

d. provide a copy of the facility policy to the resident and in the case of a minor, to the resident's parent(s) or legal guardian(s).

i. The facility's policy must provide contact information, including the phone number and mailing address, for the appropriate state protection and advocacy organization.

3. Intake Evaluation. The PRTF shall accept a resident into care only when a current diagnostic evaluation, not over one 1 year old, has been completed.

a. The diagnostic evaluation shall include examination of the medical, psychosocial, social, behavioral and developmental aspects of the recipient's situation and reflect the need for services of a PRTF. Each medical evaluation must include:

i. diagnoses;

ii. summary of medical findings;

iii. medical history;

iv. mental and physical functional capacity;

v. prognosis; and

vi. physician's recommendations.

E. Behavior Management

1. The PRTF shall develop and maintain a written behavior management policy which includes:

a. goals and purposes of the behavior management program;

b. methods of behavior management;

c. a list of staff authorized to administer the behavior management policy; and

d. methods of monitoring and documenting the use of the behavior management policy.

2. Prohibitions. The facility policy shall prohibit:

a. shaking, striking, spanking or other cruel treatment;

b. harsh, humiliating, cruel, abusive or degrading language;

c. denial of food or sleep;

d. work tasks that are degrading or unnecessary and inappropriate to the resident's age and ability;

e. denial of private familial and significant other contact, including visits, phone calls, and mail, as a means of punishment;

f. use of chemical agents, including tear gas, mace, or similar agents;

g. extreme physical exercise;

h. one resident punishing another resident;

i. group punishment; and

j. violating a resident's rights.

3. The PRTF must satisfy all requirements contained in this Chapter regarding the use of restraint or seclusion, including application of time out.

F. Resident Abuse

1. The provider shall have comprehensive written procedures concerning resident abuse including:

a. a description of ongoing communication strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, and mandated reporting requirements to the Office of Community Services Resident Protection Agency;

b. a procedure for disciplining staff members who abuse or neglect a resident;

c. procedures for insuring that the staff member involved in suspected resident abuse or neglect does not work directly with the resident involved or any other resident in the program until the investigation is complete.

2. Any case of suspected resident abuse or neglect shall be reported immediately to the HSS and, unless prohibited by state law, the state-designated protection and advocacy system.

3. Staff must report any case of suspected resident abuse or neglect to both HSS and the state-designated protection and advocacy system by no later than close of business the next business day after a case of suspected resident abuse or neglect. The report must include:

a. the name of the resident involved in the suspected resident abuse or neglect;

b. a description of the suspected resident abuse or neglect;

c. date and time the suspected abuse or neglect occurred;

d. steps taken to investigate abuse and neglect; and

e. action taken as a result of the incident.

4. In the case of a minor, the facility must notify the resident's parent(s) or legal guardian(s) as soon as possible, and in no case later than 24 hours after the suspected resident abuse or neglect.

5. Staff must document in the resident's record that the suspected resident abuse or neglect was reported to both HSS and the state-designated protection and advocacy system, including the name of the person to whom the incident was reported. A copy of the report must be maintained in the resident's record.

G Reporting of Serious Occurrences. The facility must report each serious occurrence to both HSS and, unless prohibited by state law, the state-designated protection and

advocacy system. Serious occurrences that must be reported include a resident's death or a serious injury to a resident.

1. Staff must report any serious occurrence involving a resident to both HSS and the state-designated protection and advocacy system by no later than close of business the next business day after a serious occurrence. The report must include the name of the resident involved in the serious occurrence, a description of the occurrence, and the name, street address, and telephone number of the facility. The facility must conduct an investigation of the serious occurrence to include interviews of all staff involved, findings of the investigation, and actions taken as a result of the investigation.

2. In the case of a minor, the facility must notify the resident's parent(s) or legal guardian(s) as soon as possible, and in no case later than 24 hours after the serious occurrence.

3. Staff must document in the resident's record that the serious occurrence was reported to both HSS and the state-designated protection and advocacy system, including the name of the person to whom the incident was reported. A copy of the report must be maintained in the resident's record, as well as in the incident and accident report logs kept by the facility.

4. Reporting of Deaths. In addition to the reporting requirements contained in Paragraphs 1-4 of this Subsection, facilities must report the death of any resident to the CMS regional office. The staff must:

a. report the death of any resident to the CMS regional office by no later than close of business the next business day after the resident's death;

b. document in the resident's record that the death was reported to the CMS regional office.

H. Fundraising and Publicity. The PRTF shall have a written policy regarding participation of residents in activities related to fundraising and publicity. Consent of the resident and, where appropriate, the resident's parent(s) or legal guardian(s) shall be obtained prior to participation in such activities.

I. The PRTF shall have written policies and procedures regarding the photographing and audio or audio-visual recordings of residents.

1. The written consent of the resident and, where appropriate, the resident's parent(s) or legal guardian(s) shall be obtained before the resident is photographed or recorded for research or program publicity purposes.

2. All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the resident.

J. Research. The PRTF shall have written policies regarding the participation of residents in research projects. No resident shall participate in any research project without the express written consent of the resident and the resident's parent(s) or legal guardian(s).

K. Administrative Records

1. The records and reports to be maintained at the facility and available for survey staff to review are:

- a. resident's clinical record;
- b. personnel records;
- c. criminal history investigation records;
- d. orientation and training hour records;
- e. menus of food served to residents;

f. fire drill reports acceptable to the OFSM as defined by the most current adopted edition of the *NFPA 101, Life Safety Code*;

g. schedules of planned recreational, leisure or physical exercise activities;

h. all leases, contracts and purchase-of-service agreements to which the provider is a party;

i. all written agreements with appropriately qualified professionals, or state agencies, for required professional services or resources not available from employees of the provider;

j. written policies and procedures governing all aspects of the provider's activities to include:

- i. behavior management;
- ii. emergency evacuation;
- iii. smoking policy.

L. Clinical Record. Information obtained by the department from any applicant or licensee regarding residents, their parents, or other relatives is deemed confidential and privileged communication. The names of any complainants and information regarding a child abuse report or investigation is kept confidential.

1. The PRTF shall ensure the confidentiality of resident records, including information in a computerized medical record system, in accordance with the HIPAA Privacy Regulations (Title 45, Part 164, Subpart E of the *Code of Federal Regulations*) and any Louisiana state laws and regulations which provide a more stringent standard of confidentiality than the HIPAA privacy regulations. Information from, or copies of records may be released only to authorized individuals, and the PRTF must ensure that unauthorized individuals cannot gain access to or alter resident records. Original medical records shall not be released outside the PRTF unless under court order or subpoena or in order to safeguard the record in the event of a physical plant emergency or natural disaster.

a. The provider shall have written procedures for the maintenance and security of clinical records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider, and the provider as custodian shall secure records against loss, tampering or unauthorized use.

b. Employees of the PRTF shall not disclose or knowingly permit the disclosure of any information concerning the resident or his/her family, directly or indirectly, to any unauthorized person.

c. When the resident is of majority age and noninterdicted, the provider shall obtain the resident's written, informed permission prior to releasing any information from which the resident or his/her family might be identified, except for authorized state and federal agencies.

d. When the resident is a minor or is interdicted, the provider shall obtain written, informed consent from the parent(s) or legal guardian(s) prior to releasing any information from which the resident might be identified, except for accreditation teams, authorized state and federal agencies.

e. The provider shall, upon written authorization from the resident or his/her parent(s) or legal guardian(s),

make available information in the case record to the resident, his counsel or the resident's parent(s) or legal guardian(s).

f. If, in the professional judgment of the clinical director, it is felt that information contained in the record would be injurious to the health or welfare of the resident, the provider may deny access to the record. In any such case the provider shall prepare written reasons for denial to the person requesting the record and shall maintain detailed written reasons supporting the denial in the resident's file.

g. The provider may use material from case records for teaching for research purposes, development of the governing body's understanding and knowledge of the facility's services, or similar educational purposes, provided names are deleted, other identifying information are disguised or deleted, and written authorization is obtained from the resident or his/her parent(s) or legal guardian(s).

2. Retention. PRTF records shall be retained by the PRTF in their original, microfilmed or similarly reproduced form for a minimum period of 10 years from the date a resident is discharged.

a. Graphic matter, images, x-ray films, nuclear medicine reports and like matter that were necessary to produce a diagnostic or therapeutic report shall be retained, preserved and properly stored by the PRTF in their original, microfilmed or similarly reproduced form for a minimum period of five years from the date a resident is discharged. Such graphic matter, images, x-ray film and like matter shall be retained for longer periods when requested in writing by any one of the following:

- i. an attending or consulting physician of the resident;
- ii. the resident or someone acting legally in his/her behalf;
- iii. legal counsel for a party having an interest affected by the resident's medical records.

3. The written record for each resident shall include:

- a. administrative, treatment and educational data from the time of admission until the time the resident leaves the facility, including intake evaluation notes and physician progress notes;
- b. the name, home address, home telephone number, name of parent(s) or legal guardian(s), home address and telephone number of parent(s) or legal guardian(s) (if different from resident's), sex, race, religion, birth date and birthplace of the resident;
- c. other identification data including documentation of court status, legal status or legal custody and who is authorized to give consents;
- d. placement agreement;
- e. resident's history including educational background, employment record, prior medical history and prior placement history;
- f. a copy of the resident's individual service plan and any modifications to that plan;
- g. progress reports;
- h. reports of any incidents of abuse, neglect, accidents or critical incidents, including use of passive physical restraints;

i. reports of any resident's grievances and the conclusions or dispositions of these reports. If the resident's grievance was in writing, a copy of the written grievance shall be included;

j. a summary of family visits and contacts including dates, the nature of such visits/contacts and feedback from the family;

k. a summary of attendance and leaves from the facility;

l. written notes from providers of professional or specialized services; and

m. discharge summary at the time of discharge.

4. All resident's records shall be available for inspection by the department.

M. Quality Assessment and Improvement

1. The governing body shall ensure that there is an effective, written, ongoing, facility-wide program designed to assess and improve the quality of resident care.

2. There shall be a written plan for assessing and improving quality that describes the objectives, organization, scope and mechanisms for overseeing the effectiveness of monitoring, evaluation and improvement activities. All organized services related to resident care, including services furnished by a contractor, shall be evaluated. The services provided by each LMHP shall be periodically evaluated to determine whether they are of an acceptable level of quality and appropriateness.

3. Assessment of quality shall address:

- a. resident care problems;
- b. cause of problems;
- c. documented corrective actions; and
- d. monitoring or follow-up to determine effectiveness of the corrective actions taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§9033. Notifications

A. The facility shall comply with the notification requirements as outlined in this §9033.

1. The facility shall notify the department on the next working day in the event of:

- a. temporary or permanent closing of the facility due to natural or man-made disasters;
- b. a change in the administrator and/or clinical director;
- c. damage to the premises of the facility caused by fire, accident, or other elements that seriously affects the provision of services;

2. If a resident is absent without permission, the resident's parents or custodians are to be notified immediately.

B. The facility shall comply with the notification requirements as outlined in ' 9033 regarding:

1. any case of suspected resident abuse or neglect;
2. each serious occurrence; and
3. the death of a resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Subchapter D. Human Resources

§9043. Personnel

A. Personnel policy includes, but is not limited to, defining staff, essential job functions, qualifications, and lines of authority.

1. The PRTF shall have:
 - a. a written plan for recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff members whether directly employed, contract or volunteer;
 - b. written personnel policies and written job descriptions for each staff position;
 - c. written employee grievance procedures; and
 - d. written nondiscrimination policy that shall ensure that the provider does not discriminate in the employment of individuals because of race, color, religion, sex, age, national origin, handicap, political beliefs, veteran's status or any non-merit factor in accordance with all state and federal regulations.

2. Staff Medical Requirement

- a. The PRTF shall have policies and procedures that define how the facility will comply with current regulations regarding healthcare screenings of PRTF personnel.

- b. The PRTF shall have policies and procedures and require all personnel to immediately report any signs or symptoms of a communicable disease or personal illness to their supervisor or administrator as appropriate for possible reassignment or other appropriate action to prevent the disease or illness from spreading to other residents or personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§9045. Personnel Qualifications

A. Employment Requirements. Staff shall meet the requirements outlined in this Subsection.

1. The chief executive officer (CEO) or administrator shall be qualified by an advanced degree from an accredited college or university in a mental health-related field, with at least five years of related experience.

2. The program manager shall be a LMHP with at least five years related direct service or administrative experience.

3. The clinical director shall be a psychiatrist who is either board-eligible or certified in child psychiatry, with experience appropriate to the level and intensity of services and the population to be served.

- a. The governing body of the provider shall designate a psychiatrist as the clinical director.

4. Psychological services shall be provided by or supervised by a psychologist with a doctorate degree from an accredited program in clinical or counseling psychology and with appropriate post-graduate experience.

5. A registered nurse must be licensed to practice nursing by the Louisiana State Board of Nursing.

6. The physician who assumes 24-hour on-call medical responsibility shall be a board-certified physician.

B. Staffing Definitions

1. All experience requirements are related to paid experience. Volunteer work, college work/study or internship related to completion of a degree cannot be counted as work experience. If experience is in a part-time position, the staff person must be able to verify the amount of time worked each week. Experience obtained while working in a position for which the individual is not qualified may not be counted as experience.

2. All staff qualified, eligible and employed prior to January 1, 2004, may continue to provide services with the facility employing them. If any individual on staff changes facilities, the new staff requirements must be met.

C. Criminal History Investigation and References

1. The PRTF shall arrange, prior to employment, for a criminal history investigation, as required by Louisiana R.S. 15:587.1. for:

- a. each applicant for employment, including all caregivers, substitutes, support staff, and any other person employed by the facility or program;

- b. others who have unsupervised access to children, such as volunteers, contracted staff, or janitors; and

- c. adults, including providers' spouses or adult children, who live in the facility.

2. Exceptions. Criminal history investigations are not required for:

- a. staff who move to a new facility operated by the same organization;

- b. parent volunteers who transport children on an irregular basis if the facility staff are present with children at all times;

- c. contracted staff who provide transportation, lessons, or other services if the facility staff are present with children at all times; and

- d. providers' children who become adults, age 18, during continuous residence at the licensed facility.

3. Staff criminal history investigations shall be maintained in a confidential manner, separate from the individual's personnel record.

D. Prohibitions

1. The facility is restricted from knowingly employing a person who:

- a. has entered a plea of guilty or nolo contendere, no contest, or has been convicted of:

- i. any criminal activity involving violence against a person;

- ii. child abuse or neglect;

- iii. possession, sale, or distribution of illegal drugs;

- iv. sexual misconduct and/or is required to register pursuant to the Sex Offenders Registration Act;

- v. gross irresponsibility or disregard for the safety of others; or

2. The restrictions contained in this Subsection apply to employees and persons who provide services to the facility.

3. Persons who are employed by the facility or who provide services to the facility may not use or be under the influence of, alcohol or illegal drugs during hours of work.

4. If a staff member is alleged to have committed an act described in Subsection D.1 of this Section, the accused shall be removed from contact with children until the charges are resolved. However, if criminal charges are filed,

the accused shall be removed from contact with children until the charges are resolved.

a. A person who has received a deferred sentence for any charge in Subsection D.1 of this Section shall be removed from contact with children for the duration of the deferment.

E. Orientation. Staff shall receive orientation within 30 days of employment.

1. Staff who will work with residents shall receive orientation before being assigned as the only staff responsible for residents.

2. Orientation includes, but is not limited to:

- a. confidentiality;
- b. grievance process;
- c. fire and disaster plans;
- d. emergency medical procedures;
- e. organizational structure;
- f. program philosophy;
- g. personnel policy and procedure;
- h. detecting and mandatory reporting of child abuse;
- i. detecting signs of illness or dysfunction that warrant medical or nursing intervention;
- j. basic skills required to meet the health needs and problems of the resident;
- k. crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses;
- l. physical restraint which is to include a practice element in the chosen method; and
- m. safe administration and handling of all medications including psychotropic drugs, dosages and side effects.

3. Orientation may be counted toward the total training hours for the first year.

F. The staff shall meet the following requirements for training.

1. Administrator and Clinical Director. The administrator and clinical director shall obtain a minimum of 12 clock hours of continuing education per calendar year. Hours are prorated at one hour per month for staff who has not been employed for a full year. The content pertains to the roles and responsibilities of the position.

2. Training for LMHPs and MHPs (excluding administrator and clinical director). LMHPs, MHPs and MHSs shall obtain a minimum of 12 clock hours of continuing education per calendar year. Hours are prorated at one hour per month for staff who has not been employed for a full year. The content pertains to the roles and responsibilities of the position. Content areas include, but are not limited to:

- a. crisis intervention;
- b. child/youth development;
- c. discipline;
- d. stress management;
- e. therapeutic relationship;
- f. therapeutic intervention; and
- g. abuse prevention, detection, and reporting.

3. All staff shall receive at least 40 hours of training, in addition to orientation training, during the first year of employment.

4. The facility must require staff to have ongoing education, training and demonstrated knowledge of:

a. techniques to identify staff and resident behaviors, events, and environmental factors that may trigger emergency safety situations;

b. the use of nonphysical intervention skills, such as de-escalation, mediation conflict resolution, active listening, and verbal and observational methods, to prevent emergency safety situations; and

c. the safe use of restraint and the safe use of seclusion, including the ability to recognize and respond to signs of physical distress or injury in residents who are restrained or in seclusion.

5. Certification in the use of cardiopulmonary resuscitation, including periodic recertification, is required.

6. Individuals who are qualified by education, training, and experience must provide staff training.

7. Staff training must include training exercises in which staff members successfully demonstrate in practice the techniques they have learned for managing emergency safety situations.

8. Staff must be trained and demonstrate competency before participating in an emergency safety intervention.

9. All training programs and materials used by the facility must be available for review by CMS and HSS.

G Staff Evaluation. The provider shall complete an annual performance evaluation of all staff members. For any person who interacts with residents, the provider's performance evaluation procedures shall address the quality and nature of a staff member's relationships with residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§9047. Personnel Responsibilities

A. The PRTF must meet minimum licensure requirements for staffing, staff qualifications and staffing ratios.

1. A PRTF that serves individuals from special risk populations shall modify staffing patterns to fit their increased needs.

2. The PRTF shall ensure that an adequate number of qualified staff members are present with the residents as necessary to ensure the health, safety and well-being of residents. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the PRTF, the ages and needs of the residents, and shall assure the continual safety, protection, direct care and supervision of residents.

3. When residents are at school, work or recreation outside the facility, the provider shall have a plan ensuring the availability and accessibility of direct care staff to handle emergencies or perform other necessary direct care functions.

4. The PRTF shall make sufficient provisions for housekeeping and maintenance to ensure that staff is able to adequately perform direct care functions.

B. Staffing Requirements. The PRTF shall have the clinical leadership and sufficient staff on duty to meet the 24-hour, seven day per week treatment needs of recipients and shall establish policies, contracts and practices to assure:

1. availability of adequate psychiatric services to meet the following requirements:

a. provide medical oversight of all of the clinical aspects of care, and provide 24-hour, seven days per week psychiatric on-call coverage;

b. assess each resident's medication and treatment needs including administration of medication; prescribe medications or otherwise assure the case management and consultation services are provided to obtain prescriptions, and prescribed therapeutic modalities to achieve the resident's individual treatment plan's goals; and

c. participate in the facility's treatment plan team and Quality Management process.

2. sufficient supervision of all residents 24 hours a day.

C. The facility shall maintain a minimum ratio of one staff person for two residents (1:2) during awake hours.

D. The facility shall maintain a minimum ratio of one staff person for three residents (1:3) during sleeping hours. Staff shall always be awake while on duty.

E. At a minimum the following staff positions are required. However, the same person may occupy both the administrator/director position and the program manager position if the individual meets the qualifications for both positions.

1. Chief Executive Officer (CEO) or Administrator responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

2. Program Manager assists the chief executive officer (CEO) or administrator in the management of individual programs, the supervision of direct service workers, and/or the management of administrative programs.

3. Clinical Director

a. The governing body of the provider shall designate a psychiatrist as the clinical director to assume responsibility for the psychiatric aspects of the program and to provide full time coverage on an on-site or on-call basis.

b. The designated psychiatrist shall provide a monthly minimum of one hour of on-site clinical direction per resident.

c. The designated psychiatrist shall monitor and evaluate the quality and appropriateness of services and treatment provided by the facility's direct care staff.

4. The PRTF shall provide or make available adequate numbers of LMHPs, MHPs and MHSs whose care specialization is consistent with the following duties and requirements of a PRTF:

- a. evaluate patients;
- b. formulate written individualized treatment plans;
- c. provide active treatment measures; and
- d. engage in discharge planning.

5. A LMHP or MHP shall:

a. be designated and assigned as treatment plan manager for each resident and given responsibility for and authority over those activities detailed in the minimum licensure requirements, including:

i. supervision of the treatment plan;

ii. integration of the various aspects of the resident's program;

iii. recording of the resident's progress as measured by objective indicators and making appropriate changes/modifications; and

iv. serving as liaison between the resident, provider, family and community during the resident's admission to and residence in the facility, or while the resident is receiving services from the provider.

b. provide a minimum of three individual therapy sessions each week for each resident (a minimum weekly total of 120 minutes);

c. provide a minimum of two group therapy sessions per week for each resident;

d. have a maximum caseload not to exceed 12 residents.

6. The MHSs shall be under the supervision of LMHPs and/or MHPs to assist with the duties and requirements of a PRTF.

7. There shall be at least one LMHP or MHP supervisor for every nine staff members.

8. Each resident must have a minimum of one face-to-face contact with a psychiatrist each month, and additional contacts for individuals from special risk populations, and as clinical needs of the resident dictate.

9. The PRTF shall provide or have available a psychologist to provide psychological testing and psychological services, as necessary to assist in essential diagnostic formulations as requested, and participate in program development and evaluation of program effectiveness, in therapeutic interventions and in treatment plan team meetings.

10. Depending on the needs of the residents, the PRTF shall directly provide or arrange for the services of qualified professionals and specialists, including persons as necessary from the following areas:

- a. medicine and dentistry;
- b. nursing;
- c. disabilities;
- d. speech, occupational and physical therapies; and
- e. recreation.

11. The PRTF shall provide or have available a therapeutic activities program.

a. The program must be appropriate to the needs and interests of patients and be directed toward restoring and maintaining optimal levels of physical and psychosocial functioning.

b. The number of qualified therapists, support personnel and consultants shall be adequate to provide comprehensive therapeutic activities consistent with each patient's treatment plan.

12. Nursing services shall be provided by or supervised by a registered nurse.

a. There shall be an adequate number of registered nurses, licensed practical nurses, and other staff, to provide the nursing care necessary under each patient's treatment plan.

b. The PRTF shall ensure the on-site availability of a registered nurse 24 hours per day, seven days per week.

c. All drugs and biologicals shall be administered in accordance with the orders of the practitioner(s) responsible for the resident's care and accepted standards of practice.

13. A physician shall assume 24-hour on-call medical responsibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§9049. Personnel Records

A. The facility shall maintain on file a written personnel record for each employee working at the facility, which shall be kept for at least one year following an employee's separation from employment. The personnel record shall include:

1. an application, résumé, or staff information sheet that documents qualifications for the position;
2. any health records required by the facility;
3. annual performance evaluations and any reports and notes relating to the individual's employment with the facility;
4. date of employment; and
5. date and reason for leaving employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§9051. Volunteers

A. If a facility uses volunteers, the facility shall have a current, written volunteer policy.

B. Volunteers shall receive orientation before having contact with residents.

C. Volunteers shall work under the direct supervision of a paid staff member. They shall never be left alone or in charge of a resident or group of residents without a paid staff member present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Subchapter E. Physical Environment

§9061. General Provisions

A. The PRTF shall be constructed, arranged and maintained to ensure the safety and well being of the resident.

B. Buildings

1. The buildings shall reflect good housekeeping and shall by means of an effective pest control program, be free of insects and rodents.

2. The PRTF shall maintain PRTF-wide ventilation, lighting and temperature controls.

3. There shall be a policy regarding the provision of services during any period in which the supply of electricity, natural gas, water and fuel is temporarily disrupted.

4. Doors leading into a facility or unit may be locked only in the direction of ingress.

5. Doors in the line of egress shall not be locked. Any deviation to allow the outermost doors in the line of egress to be locked may only be made after approval has been given by the Office of the State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§9063. Interior Space

A. The arrangement, appearance and furnishing of all interior areas of the facility shall be similar to those of a normal family home within the community.

B. The provider shall ensure that there is evidence of routine maintenance and cleaning programs in all areas of the facility.

C. Each living unit of a facility shall contain a space for the free and informal use of the residents. This space shall be constructed and equipped in a manner in keeping with the programmatic goals of the facility.

D. A facility shall have a minimum of 60 square feet of floor area per resident in living areas accessible to the residents and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas and office areas.

E. Resident Bed Rooms

1. Single rooms must contain at least 120 square feet and multi-bed rooms shall contain at least 100 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment. Any resident room shall not contain more than two beds.

Rooms shall have at least a 7 1/2 foot ceiling height over the required area. In a room with varying ceiling height, only portions of the room with a ceiling height of at least 7 1/2 feet are allowed in determining usable space.

a. Any PRFT applying for licensure and constructed after the effective date of the licensing regulations must comply with the requirement that each resident room shall not contain more than two beds.

2. There shall be at least 3 feet between beds.

3. There shall be sufficient and satisfactory separate storage space for clothing, toilet articles and other personal belongings of residents.

4. There shall be at least one toilet bowl with accessories, lavatory basin and bathing facility reserved for resident use on each resident floor and additional toilets, lavatories, and bathing facilities to adequately meet the needs of employees, professional personnel and residents on each unit.

5. Doors to individual bedrooms shall not be equipped with locks or any other device that would prohibit the door from being opened from either side.

6. The provider shall not use any room that does not have a window as a bedroom space.

7. The provider shall ensure that sheets, pillow, bedspread and blankets are provided for each resident.

8. Each resident shall have his/her own dresser or other adequate storage space for private use and designated space for hanging clothing in proximity to the bedroom occupied by the resident.

9. There shall be separate sleeping quarters for males and females.

F. Dining Areas

1. The facility shall have dining areas that permit residents, staff and guests to eat together in small groups.

2. A facility shall have dining areas that are clean, well lit, ventilated and attractively furnished.

G. Bathrooms

1. A facility shall have wash basins with hot and cold water, flush toilets, and bath or shower facilities with hot and cold water according to resident care needs.

a. Bathrooms shall be so placed as to allow access without disturbing other residents during sleeping hours.

b. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene unless residents are individually given such items. Residents shall be provided individual items such as hair brushes and toothbrushes.

c. Tubs and showers shall have slip proof surfaces.

2. A facility shall have toilets and baths or showers that allow for individual privacy unless the residents in care require assistance.

3. Toilets, wash basins and other plumbing or sanitary facilities in a facility shall, at all times, be maintained in good operating condition and shall be kept free of any materials that might clog or otherwise impair their operation.

H. Kitchens

1. Kitchens used for meal preparations shall have the equipment necessary for the preparation, serving, storage and clean up of all meals regularly served to all of the residents and staff. All equipment shall be maintained in proper working order.

2. The provider shall ensure that all dishes, cups and glasses used by residents are free from chips, cracks or other defects and are in sufficient number to accommodate all residents.

I. Administrative and Counseling Area

1. The provider shall provide a space that is distinct from resident's living areas to serve as an administrative office for records, secretarial work and bookkeeping.

2. The provider shall have a designated space to allow private discussions and counseling sessions between individual residents and staff, excluding, bedrooms and common living areas.

J. Furnishings

1. The provider shall have comfortable customary furniture as appropriate for all living areas. Furniture for the use of residents shall be appropriately designed to suit the size and capabilities of the residents.

2. The provider shall promptly replace or repair broken, run-down or defective furnishings and equipment.

K. Doors and Windows

1. The provider shall provide insect screens for all windows that can be opened. The screens shall be in good repair and readily removable in emergencies.

2. The provider shall ensure that all closets, bedrooms and bathrooms are equipped with doors that can be readily opened from both sides.

L. Storage

1. The provider shall ensure that there are sufficient and appropriate storage facilities.

2. The provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

M. Electrical Systems

1. The provider shall ensure that all electrical equipment, wiring, switches, sockets and outlets are maintained in good order and in safe condition.

2. The provider shall ensure that any room, corridor or stairway within a facility shall be well lit.

N. Heat

1. The provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of all residents.

2. The provider shall not use open flame heating equipment or portable electrical heaters.

O. Smoking

1. Smoking shall be prohibited in all areas of the PRTF that are heated and air-conditioned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§9065. Facility Exterior

A. The provider shall maintain all areas of the facility that are accessible to the residents in good repair and free from any reasonably foreseeable hazard to health or safety. All structures on the grounds of the facility shall be maintained in good repair.

1. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on a regular basis.

2. Trash collection receptacles and incinerators shall be separate from recreation/play areas.

3. Fences shall be in good repair.

4. Areas determined unsafe, including steep grades, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced or have natural barriers to protect residents.

5. Recreation/playground equipment shall be so located, installed and maintained as to ensure the safety of the residents.

6. Residents shall have access to safe, suitable outdoor recreational space and age appropriate equipment.

7. The provider shall ensure that exterior areas are well lit at night.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§9067. Equipment

A. Equipment shall be clean and in good repair for the safety and well-being of the residents.

B. Therapeutic, diagnostic and other resident care equipment shall be maintained and serviced in accordance with the manufacturer's recommendations.

C. Methods for cleaning, sanitizing, handling and storing of all supplies and equipment shall be such as to prevent the transmission of infection.

D. After discharge of a resident, the bed, mattress, cover, bedside furniture and equipment shall be properly cleaned. Mattresses, blankets and pillows assigned to residents shall be in a sanitary condition. The mattress, blankets and pillows used for a resident with an infection shall be sanitized in an acceptable manner before they are assigned to another resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Subchapter F. Facility Operations

§9077. Safety and Emergency Preparedness

A. The PRTF shall have an emergency preparedness plan designed to manage the consequences of natural disasters or other emergencies that could disrupt the PRTF's ability to provide care and treatment or threatens the lives or safety of the PRTF residents and/or the community it serves. The emergency preparedness plan shall be made available, upon request or if mandated to do so, to local, parish, regional and/or state emergency planning organizations, DHH and the Office of the State Fire Marshal.

B. As a minimum, the plan shall include:

1. identification of potential hazards that could necessitate an evacuation, including internal and external disasters such as a natural disaster, acts of bio-terrorism, weapons of mass destruction, labor work stoppage, or industrial or nuclear accidents;

2. emergency procedures for evacuation of the PRTF;

3. procedures in the case of interruption of utility services in a way that affects the health and safety of residents;

4. identification of the facility and an alternate facility to which evacuated residents would be relocated;

5. the estimated number of residents and staff that would require relocation in the event of an evacuation;

6. the system or procedure to ensure that medical charts accompany residents in the event of a resident evacuation and that supplies, equipment, records and medications would be transported as part of an evacuation; and

7. the roles and responsibilities of staff members in implementing the disaster plan.

C. The PRTF shall assure that residents receive nursing care throughout the period of evacuation and while being returned to the original PRTF.

D. The provider shall conduct and document fire drills once per month, one drill per shift every 90 days, at varying times of the day.

E. Notification of Emergencies. The provider shall immediately notify the HSS and other appropriate agencies of any fire, disaster or other emergency that may present a danger to residents or require their evacuation from the facility.

F. Access to Emergency Services

1. The provider shall have access to 24-hour telephone service.

2. The provider shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance services or show evidence of an alternate means of immediate access to these services.

G. General Safety Practices

1. The provider shall not maintain any firearm or chemical weapon in the living units of the facility.

2. The provider shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of residents, staff and visitors.

3. The provider shall ensure that an appropriately equipped first aid kit is available in the living units and in all vehicles used to transport residents.

4. The provider shall prohibit the use of candles in resident sleeping areas.

5. Power-driven equipment used by the provider shall be safe and properly maintained. Such equipment shall be used by residents only under the direct supervision of a staff member and according to state law.

6. The provider shall have procedures to prevent insect and rodent infestation.

7. The provider shall allow residents to swim only in areas determined to be safe and under the supervision of a person certified/trained in American Red Cross Community Water Safety or equivalent.

H. Transportation

1. The provider shall ensure that each resident is provided with the transportation necessary for implementation of the resident's treatment plan.

2. The provider shall have the means of transporting residents in cases of emergency.

3. The provider shall ensure and document that vehicles used in transporting residents, whether such vehicle is operated by a staff member or any other person acting on behalf of the provider, is inspected and licensed in accordance with state law and carries current liability insurance.

4. Any staff member of the facility or other person acting on behalf of the provider, operating a vehicle for the purpose of transporting residents shall be currently and appropriately licensed.

5. The provider shall not allow the number of persons in any vehicle used to transport residents to exceed the number of available seats in the vehicle. The provider shall not transport residents in the back or the bed of a truck.

6. The provider shall ensure that residents being transported in the vehicle are properly supervised while in the vehicle and during the trip.

7. All vehicles used for the transportation of residents shall be maintained in a safe condition and in conformity with all applicable motor vehicle laws.

8. Vehicles used to transport residents shall not be identified in a manner that may embarrass or in any way produce notoriety for residents.

9. The provider shall ascertain the nature of any need or problem of a resident that might cause difficulties during transportation, such as seizures, a tendency toward motion sickness or a disability. The provider shall communicate such information to the operator of any vehicle transporting residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§9079. Food and Diet

A. The provider shall ensure that a resident is, on a daily basis, provided with food of such quality and in such quantity as to meet the recommended daily dietary allowances adjusted for age, gender and activity of the Food Nutrition Board of the National Research Council.

1. Menus shall be written and approved annually in writing by a registered dietician.

2. The provider shall develop written menus at least one week in advance.

3. Written menus and records of foods purchased shall be maintained on file for 30 days. Menus shall provide for a sufficient variety of foods, vary from week to week and reflect all substitutions.

B. A person designated by the administrator/director shall be responsible for the total food service of the facility. This person shall be responsible for:

1. initiating food orders or requisitions;
2. establishing specifications for food purchases and insuring that such specifications are met;
3. storing and handling of food;
4. food preparation;
5. food serving;
6. orientation, training and supervision of food service personnel;
7. maintaining a current list of residents with special nutritional needs;
8. having an effective method of recording and transmitting diet orders and changes;
9. recording information in the resident's record relating to special nutritional needs;
10. providing information on the resident's diets to the staff.

C. The provider shall ensure that any modified diet for a resident shall be:

1. prescribed by the resident's physician and treatment plan with a record of the prescription kept on file;
2. planned, prepared and served by persons who have received instruction from the registered dietician who has approved the menu for the modified diet.

D. The provider shall ensure that a resident is provided at least three meals or their equivalent daily at regular times with not more than 14 hours between the evening meal and breakfast on the following day.

E. The provider shall ensure that the food provided to a resident in care of the provider is in accord with his/her religious beliefs.

F. No resident shall be denied food or force-fed for any reason except as medically required pursuant to a physician's written order. A copy of the order shall be maintained in the resident's file.

G. When meals are provided to staff, the provider shall ensure that staff members eat the same food served to residents in care, unless special dietary requirements dictate differences in diet.

H. The provider shall purchase and provide to the residents only food and drink of safe quality. The storage, preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented. Milk and milk products shall be Grade A and pasteurized.

I. The provider shall ensure that food served to a resident and not consumed is discarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§9081. Health Care and Nursing Services

A. Health Care

1. The provider shall have a written plan for providing preventive, routine and emergency medical and dental care for residents and shall show evidence of access to the resources outlined in the plan. This plan shall include:

- a. ongoing appraisal of the general health of each resident;
- b. provision of health education, as appropriate; and
- c. provisions for keeping resident's immunizations current.

2. The provider shall ensure that a resident receives timely, competent medical care when he/she is ill or injured. The provider shall notify the resident's parent or legal guardian, verbally/in writing, within 24 hours of a resident's illness or injury that requires treatment from a physician or hospital.

3. Records of all medical examinations, follow-ups and treatment together with copies of all notices to parent(s) or guardian(s) shall be kept in the resident's file.

4. Immunizations. Within 30 days of admission, the provider shall obtain documentation of a resident's immunization history, insuring that the resident has received all appropriate immunizations and booster shots that are required by the Office of Public Health.

B. Nursing Services

1. There shall be an organized nursing service that provides 24-hour nursing services. The nursing services shall be under the direction and supervision of a registered nurse licensed to practice in Louisiana, employed full time, 40 hours per week.

2. Written nursing policies and procedures shall define and describe the resident care provided. There shall be a written procedure to ensure that all licensed nurses providing care in the PRTF have a valid and current Louisiana license to practice, prior to providing any care.

3. Nursing services are either furnished or supervised and evaluated by a registered nurse.

4. There shall be at least one registered nurse on duty on site at all times.

C. Medications

1. All PRTFs that house or use scheduled narcotics shall have a site-specific Louisiana dangerous substance license and a United States Drug Enforcement Administration controlled substance registration for the facility in accordance with the Louisiana Uniform Controlled Dangerous Substance Act and Title 21 of the *United States Code*.

2. The provider shall have written policies and procedures that govern the safe administration and handling of all drugs as appropriate to the facility.

3. The provider shall have a written policy governing the self-administration of both prescription and nonprescription drugs.

4. The provider shall ensure that medications are either self-administered or administered by qualified persons according to state law.

5. The provider shall have a written policy for handling medication taken from the facility by residents on pass.

6. The provider shall ensure that any medication given to a resident for therapeutic and medical purposes is in accordance with the written order of a physician.

a. There shall be no standing orders for prescription medications.

b. There shall be standing orders, signed by the physician, for nonprescription drugs with directions from the

physician indicating when he/she is to be contacted. Standing orders shall be updated annually by the physician.

c. Copies of all written orders shall be kept in the resident's file.

7. Proper disposal procedures shall be followed for all discontinued and outdated drugs and containers with worn, illegible or missing labels.

8. Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation and security.

a. Drugs used externally and drugs taken internally shall be stored on separate shelves or in separate cabinets.

b. All drugs, including refrigerated drugs, shall be kept under lock and key.

9. The provider using psychotropic medications on a regular basis shall have a written description of the use of psychotropic medications including:

a. a description of procedures to ensure that medications are used as ordered by the physician for therapeutic purposes and in accordance with accepted clinical practice;

b. a description of procedures to ensure that medications are used only when there are demonstrable benefits to the resident unobtainable through less restrictive measures;

c. a description of procedures to ensure continual physician review of medications and discontinuation of medications when there are no demonstrable benefits to the resident;

d. a description of an ongoing program to inform residents, staff, and where appropriate, resident's parent(s) or legal guardian(s) on the potential benefits and negative side-effects of medications and to involve residents and, where appropriate, their parent(s) or legal guardian(s) in decisions concerning medication.

10. All compounding, packaging, and dispensing of drugs, biologicals, legend and controlled substances shall be accomplished in accordance with Louisiana law and Board of Pharmacy regulations and be performed by or under the direct supervision of a registered pharmacist currently licensed to practice in Louisiana.

11. Dispensing of prescription legend or controlled substance drugs direct to the public or resident by vending machines is prohibited.

12. Current and accurate records shall be maintained on the receipt and disposition of all scheduled drugs. An annual inventory, at the same time each year, shall be conducted for all Schedule I, II, III, IV and V drugs.

13. Medications are to be dispensed only upon written orders, electromechanical facsimile, or oral orders from a physician or other legally authorized prescriber, and be taken by a qualified professional.

14. All drug containers shall be labeled to show at least the resident's full name, the chemical or generic drug's name, strength, quantity and date dispensed unless a unit dose system is utilized. Appropriate accessory and cautionary statements as well as the expiration date shall be included.

15. Drugs and biologicals that require refrigeration shall be stored separately from food, beverages, blood, and laboratory specimens.

16. Drug administration errors, adverse drug reactions, and incompatibilities shall be immediately reported to the

attending physician. An entry shall be made in the resident's record.

17. Abuses and losses of controlled substances shall be reported to the individual responsible for pharmaceutical services, the administrator, the Louisiana Board of Pharmacy, DHH Controlled Dangerous Substances Program and to the Regional Drug Enforcement Administration (DEA) office, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§9083. Delivery of Services

A. The PRTF shall have an on-going plan, consistent with available community and PRTF resources, to provide or make available social work, psychological and educational services to meet the medically related needs of its residents.

B. Arrangement of Residents into Groups

1. The provider shall arrange residents into groups that effectively address the needs of the residents.

2. All residents shall have an opportunity to build relationships within small groups.

3. Residents shall be involved in decision making regarding the roles and routines of their living group to the degree possible considering their level of functioning.

4. No more than 15 residents shall be in a group or unit.

5. The PRTF shall have a distinct unit for minors.

6. Groups shall be separated by gender.

C. Individual Plan of Care Developed by a Team of Professionals. The team shall be composed of physicians and other personnel who are employed by, or who provide services to patients in the facility. The team must be capable of assessing the recipient's immediate and long-range therapeutic needs, personal strengths and liabilities, potential resources of the recipient's family, capable of setting treatment objectives, and prescribing therapeutic modalities to achieve the plan's objectives.

1. The team must include, as a minimum, either:

a. a board-certified or board-eligible psychiatrist; or

b. a licensed clinical psychologist who has a doctoral degree and a physician licensed to practice medicine or osteopathy; or

c. a physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnosis and treatment of mental diseases and a psychologist who has a master's degree in clinical psychology.

2. The team must also include one of the following:

i. a psychiatric social worker;

ii. a registered nurse with specialized training or one year of experience in treating mentally ill individuals;

iii. a licensed occupational therapist with specialized training, or one year of experience in treating mentally ill individuals; or

iv. a psychologist who has a master's degree in clinical psychology.

3. The plan shall be developed in consultation with the recipient and parents, legal guardians, or others in whose care he/she will be released after discharge.

4. Content. The individual plan of care is a written plan developed for each recipient to improve the recipient's

condition to the extent that inpatient care is no longer necessary. The plan must:

- a. be based on a diagnostic evaluation that includes examination of the medical, psychosocial, social, behavioral, and developmental aspects of the recipient's situation and reflects the need for PRTF services, including:
 - i. diagnoses, symptoms, complaints, and complications indicating the need for admission;
 - ii. a description of the functional level of the individual;
 - iii. any orders for medication and diet;
 - iv. restorative, social and rehabilitation services;
 - v. treatment objectives;
 - vi. an integrated program of therapies, activities, and experiences designed to meet the objectives;
 - vii. plans for continued care, as appropriate; and
 - viii. post-discharge plans and coordination of inpatient services with partial discharge plans and related community services to ensure continuity of care with the recipient's family, school, and community upon discharge.

5. The plan of care must be reviewed every 30 days or as often as necessary by the team of professionals.

D. The provider shall ensure that any provider of professional or special services (internal or external to the agency) meets the following:

1. are adequately qualified and, where appropriate, currently licensed or certified according to state or federal law;
2. have adequate space, facilities and privacy;
3. have appropriate equipment;
4. have adequate supplies;
5. have appropriate resources.

E. Discharge Planning. The PRTF shall also have an effective, on-going discharge planning program that facilitates the provision of follow-up care. Each resident's record shall be annotated with a note regarding the nature of post PRTF care arrangements. Discharge planning shall be initiated in a timely manner. Residents, along with necessary medical information (e.g., the resident's functional capacity, nursing and other care requirements, discharge summary, referral forms) shall be transferred or referred to appropriate facilities, agencies or services, as needed, for follow-up or ancillary care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§9085. Resident Rights and Grievance Procedure

A. Every resident shall have the following rights, none of which shall be abridged by the PRTF or any of its staff. The PRTF administrator shall be responsible for developing and implementing policies to protect resident rights and to respond to questions and grievances pertaining to resident rights. These rights shall include at least the following:

1. every resident, or his/her designated representative, shall whenever possible, be informed of the residents' rights and responsibilities in advance of furnishing or discontinuing resident care;
2. the right to have a family member, chosen representative and/or his or her own physician notified promptly of admission to the PRTF;

3. the right to receive treatment and medical services without discrimination based on race, age, religion, national origin, sex, sexual preferences, handicap, diagnosis, ability to pay or source of payment;

4. the right to be treated with consideration, respect and recognition of their individuality, including the need for privacy in treatment;

5. the right to receive, as soon as possible, the services of a translator or interpreter, if needed, to facilitate communication between the resident and the PRTF's health care personnel;

6. the right to participate in the development and implementation of his/her plan of care;

7. every resident or his/her representative (as allowed by state law) has the right to make informed decisions regarding his/her care;

8. the resident's rights include being informed of his/her health status, and being involved in care planning and treatment;

9. the right to be included in experimental research only when he/she gives informed, written consent to such participation, or when a guardian provides such consent for an incompetent resident in accordance with appropriate laws and regulations. The resident may refuse to participate in experimental research, including the investigations of new drugs and medical devices;

10. the right to be informed if the PRTF has authorized other health care and/or educational institutions to participate in the resident's treatment. The resident shall also have a right to know the identity and function of these institutions;

11. the right to be informed by the attending physician and other providers of health care services about any continuing health care requirements after the resident's discharge from the PRTF. The resident shall also have the right to receive assistance from the physician and appropriate PRTF staff in arranging for required follow-up care after discharge;

12. the right to consult freely and privately with his/her parent(s) or legal guardian(s);

13. the right to consult freely and privately with legal counsel, as well as the right to employ legal counsel of his/her choosing;

14. the right to make complaints without fear of reprisal;

15. the opportunity for telephone communication;

16. the right to send and receive mail;

17. the right to possess and use personal money and belongings, including personal clothing;

18. the right to visit or be visited by family and friends subject only to reasonable Rules and to any specific restrictions in the resident's treatment plan. Special restrictions shall be imposed only to prevent serious harm to the resident. The reasons for any special restrictions shall be recorded in the resident's treatment plan;

19. the right to have the individual resident's medical records, including all computerized medical information, kept confidential;

20. the right to access information contained in his/her medical records within a reasonable time frame;

21. the right to be free from all forms of abuse and harassment;

22. the right to receive care in a safe setting;
23. the right to be informed in writing about the PRTF's policies and procedures for initiation, review and resolution of resident complaints;

24. the provider shall ensure that each resident has access to appropriate educational services consistent with the resident's abilities and needs, taking into account his/her age and level of functioning;

25. the provider shall have a written description regarding the involvement of the resident in work including:

a. description of any unpaid tasks required of the resident;

b. description of any paid work assignments including the pay scales for such assignments;

c. description of the provider's approach to supervising work assignments;

d. assurance that the conditions and compensation of such work are in compliance with applicable state and federal laws;

e. all work assignments shall be in accordance with the resident's treatment plan;

f. the provider shall assign as unpaid work for the resident only housekeeping tasks similar to those performed in a normal family home. Any other work assigned shall be compensated, at such rate and under such conditions as the resident might reasonably be expected to receive for similar work in outside employment;

26. the provider shall have a written plan for insuring that a range of indoor and outdoor recreational and leisure opportunities are provided for residents. Such opportunities shall be based on both the individual interests and needs of the resident and the composition of the living group;

a. the provider shall be adequately staffed and have appropriate recreation spaces and facilities accessible to residents;

b. any restrictions of recreational and leisure opportunities shall be specifically described in the treatment plan, together with the reasons such restrictions are necessary and the extent and duration of such restrictions;

27. every resident shall be permitted to attend religious services in accordance with his/her faith. Residents shall not be forced to attend religious services;

28. the provider shall have a program to ensure that residents receive training in independent living skills appropriate to their age and functioning level. This program shall include instruction in:

a. hygiene and grooming;

b. laundry and maintenance of clothing;

c. appropriate social skills;

d. housekeeping;

e. budgeting and shopping;

f. cooking; and

g. punctuality, attendance and other employment related matters;

29. the provider shall ensure services in the following areas to meet the specialized needs of the resident:

a. physical/occupational therapy;

b. speech pathology and audiology;

c. psychological and psychiatric services; and

d. social work services;

30. in addition to the rights listed herein, residents have the rights provided in the Louisiana Mental Health Law.

B. Resident rights regarding the use of restraint or seclusion. In addition to the resident rights listed above in this §9085, every resident shall have the following rights regarding the use of restraint or seclusion in the PRTF.

1. Protection of Residents

a. Restraint and seclusion policy for the protection of residents.

i. each resident has the right to be free from restraint or seclusion, of any form, used as a means of coercion, discipline, convenience, or retaliation;

ii. an order for restraint or seclusion must not be written as a standing order or on an as-needed basis;

iii. restraint or seclusion must not result in harm or injury to the resident and must be used only:

(a). to ensure the safety of the resident or others during an emergency safety situation; and

(b). until the emergency safety situation has ceased and the resident's safety and the safety of others can be ensured, even if the restraint or seclusion order has not expired;

iv. restraint and seclusion must not be used simultaneously.

b. Emergency Safety Intervention. An emergency safety intervention must be performed in a manner that is safe, proportionate, and appropriate to the severity of the behavior, and the resident's chronological and developmental age, size, gender, physical, medical, and psychiatric condition and personal history (including any history of physical or sexual abuse).

2. Orders for the Use of Restraint or Seclusion

a. Orders for restraint or seclusion must be by a physician, or other licensed practitioner permitted by the state and the facility to order restraint or seclusion and trained in the use of emergency safety interventions. Federal regulations at 42 CFR 441.151 require that inpatient psychiatric services for recipients under age 21 be provided under the direction of a physician.

b. If the resident's treatment team physician is available, only he/she can order restraint or seclusion. If the resident's treatment team physician is unavailable, the physician covering for the treatment team physician can order restraint or seclusion. The covering physician must meet the same requirements for training and experience described in Subparagraph a. of this Paragraph 2.

c. A physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must order the least restrictive emergency safety intervention that is most likely to be effective in resolving the emergency safety situation based on consultation with the staff.

d. If the order for restraint or seclusion is verbal, the verbal order must be received by a registered nurse or other licensed staff such as a licensed practical nurse, while the emergency safety intervention is being initiated by the staff or immediately after the emergency safety situation ends. The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must verify the verbal order in a signed written form in the resident's record. The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must be available to the staff for consultation, at

least by telephone, throughout the period of the emergency safety intervention.

e. Each order for restraint or seclusion must:

- i. be limited to no longer than the duration of the emergency safety situation; and
- ii. under no circumstances exceed four hours for residents ages 18 to 21; two hours for residents ages 9 to 17; or one hour for residents under age 9.

f. Within one hour of the initiation of the emergency safety intervention a physician, or other licensed practitioner trained in the use of emergency safety interventions and permitted by the state and the facility to assess the physical and psychological well being of residents, must conduct a face-to-face assessment of the physical and psychological well being of the resident, including but not limited to:

- i. the resident's physical and psychological status;
- ii. the resident's behavior;
- iii. the appropriateness of the intervention measures; and
- iv. any complications resulting from the intervention.

g. Each order for restraint or seclusion must include:

- i. the name of the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion;
- ii. the date and time the order was obtained; and
- iii. the emergency safety intervention ordered, including the length of time for which the physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion authorized its use.

h. Staff must document the intervention in the resident's record. That documentation must be completed by the end of the shift in which the intervention occurs. If the intervention does not end during the shift in which it began, documentation must be completed during the shift in which it ends. Documentation must include all of the following:

- i. each order for restraint or seclusion as required in Subparagraph g of this Paragraph 2;
- ii. the time the emergency safety intervention actually began and ended;
- iii. the time and results of the one-hour assessment required in Subparagraph f of this Paragraph 2;
- iv. the emergency safety situation that required the resident to be restrained or put in seclusion; and
- v. the name of staff involved in the emergency safety intervention.

i. The facility must maintain a record of each emergency safety situation, the interventions used, and their outcomes.

j. The physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion must sign the restraint or seclusion order in the resident's record as soon as possible.

3. Consultation with Treatment Team Physician. If a physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion orders the use of restraint or seclusion, that person must contact the resident's treatment team physician, unless the ordering

physician is in fact the resident's treatment team physician. The person ordering the use of restraint or seclusion must:

a. consult with the resident's treatment team physician as soon as possible and inform the team physician of the emergency safety situation that required the resident to be restrained or placed in seclusion; and

b. document in the resident's record the date and time the team physician was consulted.

4. Monitoring of the Resident in and Immediately after Restraint

a. Clinical staff trained in the use of emergency safety interventions must be physically present, continually assessing and monitoring the physical and psychological well-being of the resident and the safe use of restraint throughout the duration of the emergency safety intervention.

b. If the emergency safety situation continues beyond the time limit of the order for the use of restraint, a registered nurse or other licensed staff, such as a licensed practical nurse, must immediately contact the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion to receive further instructions.

c. A physician, or other licensed practitioner permitted by the state and the facility to evaluate the resident's well-being and trained in the use of emergency safety interventions, must evaluate the resident's well-being immediately after the restraint is removed.

5. Monitoring of the Resident in and Immediately after Seclusion

a. Clinical staff, trained in the use of emergency safety interventions, must be physically present in or immediately outside the seclusion room, continually assessing, monitoring, and evaluating the physical and psychological well-being of the resident in seclusion. Video monitoring does not meet this requirement.

b. A room used for seclusion must:

i. allow staff full view of the resident in all areas of the room; and

ii. be free of potentially hazardous conditions such as unprotected light fixtures and electrical outlets.

c. If the emergency safety situation continues beyond the time limit of the order for the use of seclusion, a registered nurse or other licensed staff, such as a licensed practical nurse, must immediately contact the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion to receive further instructions.

d. A physician, or other licensed practitioner permitted by the state and the facility to evaluate the resident's well-being and trained in the use of emergency safety interventions, must evaluate the resident's well-being immediately after the resident is removed from seclusion.

6. Notification of Parent(s) or Legal Guardian(s). If the resident is a minor as defined in this Chapter:

a. the facility must notify the parent(s) or legal guardian(s) of the resident who has been restrained or placed in seclusion as soon as possible after the initiation of each emergency safety intervention;

b. the facility must document in the resident's record that the parent(s) or legal guardian(s) has been notified of the emergency safety intervention, including the

date and time of notification and the name of the staff person providing the notification.

7. Time Out Application

a. A resident in time out must never be physically prevented from leaving the time out area.

b. Time out may take place away from the area of activity or from other residents, such as in the resident's room (exclusionary), or in the area of activity or other residents (inclusionary).

c. Staff must monitor the resident while he/she is in time out.

8. Post Intervention Debriefings

a. Within 24 hours after the use of restraint or seclusion, staff involved in an emergency safety intervention and the resident must have a face-to-face discussion. This discussion must include all staff involved in the intervention except when the presence of a particular staff person may jeopardize the well-being of the resident. Other staff and the resident's parent(s) or legal guardian(s) may participate in the discussion when it is deemed appropriate by the facility. The facility must conduct such discussion in a language that is understood by the resident's parent(s) or legal guardian(s). The discussion must provide both the resident and staff the opportunity to discuss the circumstances resulting in the use of restraint or seclusion and strategies to be used by the staff, the resident, or others that could prevent the future use of restraint or seclusion.

b. Within 24 hours after the use of restraint or seclusion, all staff involved in the emergency safety intervention, and appropriate supervisory and administrative staff, must conduct a debriefing session that includes, at a minimum, a review and discussion of:

i. the emergency safety situation that required the intervention, including a discussion of the precipitating factors that led up to the intervention;

ii. alternative techniques that might have prevented the use of the restraint or seclusion;

iii. the procedures, if any, that staff are to implement to prevent any recurrence of the use of restraint or seclusion; and

iv. the outcome of the intervention, including any injuries that may have resulted from the use of restraint or seclusion.

c. Staff must document in the resident's record that both debriefing sessions took place and must include in that documentation the names of staff who were present for the debriefing, names of staff that were excused from the debriefing, and any changes to the resident's treatment plan that resulted from the debriefings.

9. Medical Treatment for Injuries Resulting from an Emergency Safety Intervention

a. Staff must immediately obtain medical treatment from qualified medical personnel for a resident injured as a result of an emergency safety intervention.

b. The psychiatric residential treatment facility must have affiliations or written transfer agreements in effect with one or more hospitals approved for participation under the Medicaid program that reasonably ensure that:

i. a resident will be transferred from the facility to a hospital and admitted in a timely manner when a transfer is medically necessary for medical care or acute psychiatric care;

ii. medical and other information needed for care of the resident in light of such a transfer, will be exchanged between the institutions in accordance with state medical privacy law, including any information needed to determine whether the appropriate care can be provided in a less restrictive setting; and

iii. services are available to each resident 24 hours a day, seven days a week.

c. Staff shall document in the resident's record, all injuries that occur as a result of an emergency safety intervention, including injuries to staff resulting from that intervention.

d. Staff involved in an emergency safety intervention that results in an injury to a resident or staff shall meet with supervisory staff and evaluate the circumstances that caused the injury and develop a plan to prevent future injuries.

C. Grievance Procedure for Residents

1. The provider shall have a written grievance procedure for residents designed to allow residents to make complaints without fear of retaliation.

2. The provider shall document that the resident and the resident's parent(s) or legal guardian(s) are aware of and understand the grievance procedure.

3. The provider shall document the resolution of the grievance in the resident's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 24, 2003 at 9:30 a.m. in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Psychiatric Residential Treatment
Facilities Licensure**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no costs to the state as a result of implementation of this proposed Rule. It is anticipated that \$7,752 (\$3,876 SGF and \$3,876 FED) will be expended in SFY 2003-2004 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 affect federal revenue collections. It is anticipated that \$3,876 will be expended in SFY 2003-2004 for the federal

share of the expense for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule proposes to adopt minimum licensure standards for all Psychiatric Residential Treatment Facilities in the State of Louisiana that participate in the Louisiana Medicaid Program. It is anticipated that implementation of this proposed Rule will cost providers of Psychiatric Residential Treatment Facility services approximately \$2,440 for SFY 2003-2004, \$4,880 for SFY 2004-2005 and \$4,880 for SFY 2005-2006 as a result of the collection of annual fees from the licensing of approximately eight non state-owned Psychiatric Residential Treatment Facilities at a cost of approximately \$610 for each facility. It is assumed that four of the non state-owned facilities will enroll the first year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0310#064

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Statewide Order No. 29-BC General Requirements
(LAC 43:XIX.303)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, R.S. 4.C, the Louisiana Office of Conservation hereby proposes to amend an existing Rule at Statewide Order No. 29-B (LAC 43:XIX.303). The Rule concerns the authorization of subsurface disposal of wastes associated with the exploration, development, and production of oil and gas resources in disposal wells under the jurisdiction of the Office of Conservation. The amended Rule will allow for the administrative approval for produced water disposal into a productive zone, in which the productive mechanism of the zone is aquifer expansion (water drive).

The amended Rule addresses authorization procedures, establishes disposal zone and disposal well status standards, citing and written consent requirements. The proposed Rule will have no impact on family formation, stability, and autonomy as prescribed in R.S. 49:972.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

**Chapter 3. Pollution Control—Onsite Storage,
Treatment and Disposal of Nonhazardous
Oilfield Waste (NOW) Generated from the
Drilling and Production of Oil and Gas
Wells (Oilfield Pit Regulations)**

§303. General Requirements

A. Produced water generated from the drilling and production of oil and gas wells shall be disposed of into subsurface formations, unless discharged or disposed of

according to the provisions of §303.E, or transported offsite in accordance with LAC 43:XIX, Subpart 1, Chapter 5.

B. - C. ...

D. Produced water and other NOW generated in the drilling and production of oil and gas wells shall not be disposed of into a zone producing or productive of hydrocarbons except as provided for in LAC 43:XIX.303.O or such disposal is approved by the Office of Conservation after a public hearing or unless prior approval to use the proposed zone for such disposal can be documented.

E. - M.3. ...

N. Evidence of contamination of a groundwater aquifer or USDW may require compliance with the monitoring program of §309, compliance with the liner requirements of §307.A.1, or immediate closure of the pit.

O. The Commissioner may authorize, without the necessity of a public hearing, the disposal of produced water into a zone producing or productive of hydrocarbons upon application of the operator of the proposed disposal well. Such application shall include the following:

1. evidence establishing the production mechanism of the proposed disposal zone is aquifer expansion (water drive);
2. evidence demonstrating the proposed disposal well is not productive in the proposed disposal zone;
3. a plat showing the proposed disposal well is not located within 330' of a property line as it is defined in LAC 43:XIX.1901;
4. written consent of all operators of record with existing wells within a 1/4 mile radius of such proposed disposal well; and
5. such other information which the commissioner may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2799 (December 2000), amended LR 30:

All interested persons can submit written comments until 4:30 p.m., Friday, December 5, 2003, to Office of Conservation, Injection and Mining Division, P.O. Box 94275, Baton Rouge, LA, 70804-9275. Please reference Docket No. IMD 2003-06. The Commissioner of Conservation will conduct a public hearing at 10 a.m., Tuesday, November 25, 2003, in the LaBelle Room on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA. All interested parties will be afforded the opportunity to submit comments regarding the amended Rule, orally or in writing, at said public hearing in accordance with R. S. 49:953.

James H. Welsh
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Statewide Order No. 29-B
General Requirements**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No additional implementation costs (savings) to state or local; governmental units are anticipated to implement the proposed Rule amendment.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no anticipated 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)

No costs are anticipated to directly affected persons or non-governmental groups. The proposed Rule amends existing Rules concerning the authorization, without the necessity of a public hearing, of subsurface disposal of wastes associated with the exploration, development, and production of oil and gas resources in disposal wells under the jurisdiction of the Office of Conservation. Affected persons may incur economic benefits since the proposed Rule allows for the permitting of additional subsurface disposal zones within oil and gas fields where the existing disposal zones are at or near capacity and where other viable nonproductive disposal zones are unavailable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Felix J. Boudreaux Robert E. Hosse
Assistant Commissioner General Government Section Director
0310#046 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Statewide Order No. 29-L-3C Termination of Units
(LAC 43:XIX.3101, 3103, and 3105)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, R.S. 4.C, the Louisiana Office of Conservation hereby proposes to amend an existing Rule, Statewide Order No. 29-L-2 (LAC 43:XIX.3101, 3103, and 3105). The Rule concerns the terminations of oil and gas unit(s) for a pool established by the Commissioner of Conservation. The amended Rule will allow the termination of any unit or units for a pool provided each of the items listed below apply as of the date the application is filed with the commissioner:

1. A period of five years has elapsed without any production from the unit or units.
2. There is no well located on the unit which is capable of producing from the pool for which the unit or units is established.
3. A period of a year and 90 days has elapsed without any drilling, reworking, recompletion, plugging back, or deepening operations having been conducted on a well located on the unit in an attempt to obtain or restore production from the pool for which the unit or units were established.
4. There is no unexpired drilling permit for the drilling of a new well on the unit to a depth which would penetrate the pool for which the unit or units were established.

Title 43

NATURAL RESOURCES

Part XIX. Office of ConservationC General Operations

Subpart 13. Statewide Order No. 29-L-3

Chapter 31. Termination of Units

§3101. Scope

A. This order establishes Rules and regulations for termination of any unit established by the commissioner of conservation pursuant to the authority of Title 30 of the Revised Statutes of 1950.

AUTHORITY NOTE: Promulgated in accordance with RS. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741 (September 1989), repromulgated LR 19:776 (June 1993), amended LR 21:1083 (October 1995) LR 30:

§3103. Definitions

A. Unless the context otherwise requires, the words defined in this Section shall have the following meaning when found in this order.

*District Manager*Cthe manager of any one of the districts of the state of Louisiana under the Office of Conservation, and refers specifically to the manager within whose district the pool for which any unit(s) are sought to be terminated are located.

*Interested Party*Cany person, as person is defined in Title 30 of the Revised Statutes of 1950, who owns an interest in any unit(s) sought to be terminated.

*Pool*Can underground reservoir containing a common accumulation of crude petroleum or natural gas or both. Each zone of a general structure which is completely separated from any other zone in the structure is covered by the term pool.

*Unit*Cany unit(s), whether one or more, established for a particular pool, by order of the commissioner of conservation pursuant to authority of Subsection B of Section 9 or Subsection B or C of Section 5 of Title 30 of the Revised Statutes of 1950.

*Well*Call wells drilled within the confines of any unit(s) sought to be terminated.

AUTHORITY NOTE: Promulgated in accordance with RS.30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741 (September 1989), repromulgated, LR 19:776 (June 1993), amended LR 21:1083 (October 1995), LR 30:

§3105. Order

A. Termination of All Existing Units for a Pool

1. On and after the effective date hereof, a supplemental order terminating all existing units established by the commissioner for a pool may be issued after written application and upon proper showing in the manner provided herein, and in the absence of protest without the necessity of a public hearing, when with respect to the pool for which the unit was established, a period of one year and 90 days has elapsed without:

- a. production from the pool; and
- b. the existence of a well proven capable of producing from the pool; and

c. drilling, reworking, recompletion, deepening or plugging back operations having been conducted on a well to secure or restore production from the pool.

2. Each application for unit termination shall be filed with the commissioner with a copy to the district manager and each interested party. Interested parties need not be furnished information described in §3105.A.2.b, d and e. The application shall include the following:

a. a plat showing all existing units established for the pool, with each well located thereon, together with order number(s) and effective date of the order(s) of the commissioner establishing said units. Each well shall be identified on such plat by operator of record, serial number and well name and number or by reference to an appropriate attachment;

b. a signed statement indicating the status of each well. Should there exist a well which has not been plugged and abandoned in accordance with LAC 43:XIX.137, sufficient geological, engineering, or other data with detailed explanation thereof to clearly demonstrate that said well is not capable of producing from the pool;

c. a signed statement indicating that with respect to the pool for which the unit was established, to the best of applicant's knowledge, a period of one year and 90 days has elapsed without:

i. production from the pool; and
ii. the existence of a well proven capable of producing from the pool; and
iii. drilling, reworking, recompletion, deepening or plugging back operations having been conducted on a well to secure or restore production from the pool;

d. a list of all interested parties identified by the applicant after reasonable search to whom a copy of the application has been sent;

e. an application fee as established by LAC 43:XIX.201 et seq.

3. Notice of the filing of the application of unit termination shall be published in the official journal of the state of Louisiana giving notice that unless a written protest is filed with the commissioner within the 30-day period from the date of publication of notice, the commissioner may issue a supplemental order for such unit termination. In the event written objection is filed within said 30-day period, the applicant may apply for a public hearing for consideration of the application.

B. Termination of Any Existing Unit for a Pool

1. On and after the effective date hereof, a supplemental order terminating any existing unit(s) established by the commissioner for a pool may be issued after written application and upon proper showing in the manner provided herein, and in the absence of protest without the necessity of a public hearing, when with respect to the unit(s) to be terminated, each of the following apply as of the date the application for unit termination is filed with the commissioner:

a. a period of five years has elapsed without any production from the unit(s); and

b. there is no well located on the unit(s) which is capable of producing from the pool for which the unit(s) was established; and

c. a period of one year and 90 days has elapsed without any drilling, reworking, recompletion, deepening or

plugging back operations having been conducted on a well located on the unit(s) to be terminated in an attempt to secure or restore production from the pool for which the unit(s) was established.

2. Each application for unit termination shall be filed with the commissioner with a copy to the district manager and each interested party. Interested parties need not be furnished information described in §3105.B.2.b, d and e. The application shall include the following:

a. a plat showing the existing unit(s) to be terminated, with each well located thereon, together with order number and effective date of the order of the commissioner establishing said unit(s). Each well shall be identified on such plat by operator of record, serial number and well name and number or by reference to an appropriate attachment;

b. a signed statement indicating the status of each well. Should there exist a well which has not been plugged and abandoned in accordance with LAC 43:XIX.137, sufficient geological, engineering, or other data with detailed explanation thereof to clearly demonstrate that said well located on the unit(s) is not capable of producing from the pool for which the unit(s) was created;

c. a signed statement indicating that with respect to the unit(s) to be terminated, to the best of applicant's knowledge, each of the following apply as of the date the application for unit termination is filed with the commissioner:

i. a period of five years has elapsed without any production from the unit(s); and

ii. there is no well located on the unit(s) to be terminated which is capable of producing from the pool for which the unit(s) was established; and

iii. a period of one year and 90 days has elapsed without any drilling, reworking, recompletion, deepening or plugging back operations having been conducted on a well located on the unit(s) in an attempt to secure or restore production from the pool for which the unit(s) was established; and

iv. there is no unexpired drilling permit for the drilling of a new well on the unit(s) to be terminated to a depth which would penetrate the pool for which the unit(s) was established;

d. a list of all interested parties identified by the applicant after reasonable search to whom a copy of the application has been sent;

e. an application fee as established by LAC 43:XIX.201 et seq.

3. Notice of the filing of the application of unit termination shall be published in the official journal of the state of Louisiana giving notice that unless a written protest is filed with the commissioner within the 30-day period from the date of publication of notice, the commissioner may issue a supplemental order for such unit termination. In the event written objection is filed within said 30-day period, the applicant may apply for a public hearing for consideration of the application.

C. The effective date of any supplemental order issued hereunder can not be prior to the expiration of the legal advertisement period, reference §3105.A.3 and §3105.B.3 hereof. Consequently, any activity described in §3105.A.1 and §3105.B.1 hereof, occurring between the date of the

signed statement, reference §3105.A.2.c and §3105.B.2.c hereof and the expiration of the legal advertisement period, shall result in application denial.

D. Any supplemental order issued hereunder approving the application terminating any unit(s) created for the pool shall be filed for record as provided in Section 11.1 of Title 30 of the Revised Statutes of 1950.

E. This order supersedes Statewide Order Number 29-L-2 and shall be effective on and after December 20, 2003.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741 (September 1989), amended, LR 19:776 (June 1993), repromulgated LR 19:1030 (August 1993), amended LR 21:1083 (October 1995), LR 30:

Family Impact Statement

The proposed Rule will have no impact on family formation, stability, and autonomy as prescribed in R.S. 49:972.

Notice is hereby given that the Commissioner of Conservation will conduct a public hearing at 10 a.m., Tuesday, November 25, 2003, in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA. All interested parties will be afforded the opportunity to submit comments regarding the amended Rule, orally or in writing, at said public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., Friday, December 5, 2003. Address written comments to Office of Conservation, Engineering Division, P.O. Box 94275, Baton Rouge, LA 70804-9275. Please reference Docket No. 03-730.

James H. Welsh
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Statewide Order No. 29-L-3

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs/savings to state or local governmental units.

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)

No costs are anticipated to directly affected persons or nongovernmental groups. The proposed amendment to the Rule amends existing rules concerning the termination, without the necessity of a public hearing, of drilling and production units established under the jurisdiction of the Office of Conservation. Affected persons may incur economic benefits since the proposed Rule allows for the termination of individual units. This may encourage the drilling of additional wells in areas where it would not be economically feasible with the existing unit as established.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

James H. Welsh
Commissioner
0310#056

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Correction
Corrections Services**

**Access to and Release of Active and Inactive Records
(LAC 22:I.101)**

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 15:823, and the Administrative Procedures Act, R.S. 49:950, et seq., hereby gives notice of its intent to repeal the current LAC 22:I.101, Records of Adult Offenders and Ex-Offenders, in its entirety and to adopt a LAC 22:I.101, Access to and Release of Active and Inactive Records.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 1. Secretary's Office

§101. Access to and Release of Active and Inactive Records

A. Purpose. To establish the secretary's policy and procedures for access to and release of active and inactive inmate records.

B. Applicability. This regulation applies to all persons employed by the department and those who are under contract with the department. The assistant secretary/office of adult services, all wardens-adult and the director of probation and parole-adult are responsible for implementing this regulation and conveying its contents to all affected persons.

C. Definitions

Application for Pardon or Parole Cfor the purpose of this regulation, an application for pardon or parole is defined as any time that an inmate has made an application for pardon or parole, (including medical parole) or has been released on diminution of sentence (Good Time Parole Supervision-GTPS).

Law Enforcement Agencies Cthose agencies designed to enforce federal, state or municipal laws and who receive public funds as their primary source for operation, i.e., sheriff's offices, local and state police departments, departments of corrections, U.S. attorneys, district attorneys, and the Federal Bureau of Investigation (FBI).

Sex Offender, Serial Sexual Offender, Sexually Violent Predator, Child Predator Cmates committed to the Department for a crime listed in R.S. 15:536 and 15:541. (See N.1. List of Sex Offenses.)

D. Release of Information and Records

1. The pre-sentence investigation report, the pre-parole report, the clemency report, the information and data gathered by the staffs of the Board of Pardons and Board of

Parole, the prison record, and any other information obtained by the Boards or Corrections Services, in the discharge of official duties shall be confidential and shall not be subject to public inspection nor be disclosed directly or indirectly to anyone except as in accordance with this regulation.

2. Following an application for pardon and parole, all information pertaining to an individual's misconduct while incarcerated, statistical information, information pertaining to disposition of criminal charges and incarcerations, and information of a general nature including an individual's age, offense, date of conviction, length of sentence, any correspondence by a public official which requests, or may be determined to be in support of, or in opposition to, the pardon or parole of an individual, and discharge date shall be released to the general public at any time upon request.

NOTE: This provision shall not apply to any public official correspondence which requests, or may be determined to be in support of, or in opposition to, the pardon or parole of an individual, which was received prior to August 15, 1997.

3. An inmate's DOC number and assigned location may be released without restriction.

4. Except as noted below, any communication with the Board of Pardons or Board of Parole urging parole, pardon, clemency, or commutation of sentence or otherwise regarding an inmate shall be deemed a public record and subject to public inspection.

a. Exception. Any letter written by, or on behalf of, any victim of a crime committed by an inmate under consideration for parole, pardon, clemency, or commutation of sentence, or any letter written in opposition to pardon, clemency, or commutation of sentence shall be confidential and shall not be deemed a public record and subject to public inspection. This exception shall not apply to any elected or appointed public official.

5. Information on a particular inmate may be released without special authorization, subject to other restrictions that may be imposed by federal law or by other provisions of state law, to the following:

a. Board of Parole;
b. Board of Pardons;
c. governor;
d. sentencing judge;
e. district attorneys;
f. law enforcement agencies;
g. Department of Public Safety and Corrections personnel, including legal representatives and student workers;

h. appropriate governmental agencies or public officials, when access to such information is imperative for the discharge of the responsibilities of the requesting agency, official or court officer and the information is not reasonably available through any other means; and

i. court officers with court orders specifying the information requested.

6. Fingerprints, photographs, and information pertaining to arrests and disposition of criminal charges, as well as information regarding escapes may be released to law enforcement agencies without special authorization.

7. The secretary or his designee may approve the reading (but not copying) of confidential information by the following:

a. social service agencies assisting in the treatment of the inmate or ex-offender; and

b. approved researchers who have guaranteed in writing anonymity of all subjects.

8. The secretary or his designee may approve the selective reading (but not copying) of information by a private citizen or organization aiding in the rehabilitation of, or directly involved in the hiring of, the inmate or ex-offender under the following conditions:

a. it appears that the withholding of the information would be to the inmate's or ex-offender's disadvantage;

b. the requested information is necessary to further the rehabilitation or the likelihood of hiring the inmate or ex-offender;

c. the requested information is not reasonably available through other means; and

d. the inmate or ex-offender has given his written consent to release the information.

NOTE: Each unit will develop and use a "release of information consent form" for this purpose prior to the release of information and a copy will be placed in the inmate's record.

E. Release of Information on Sex Offenders

1. In addition to information which may be released pursuant to Section 6, criminal history record information regarding sex offenders, serial sexual offenders, sexually violent predators and child predators which pertains to a conviction for which an inmate is currently sentenced to the Department's custody may be disseminated without restriction.

2. For the purpose of this regulation, criminal history record information includes the following:

- a. date and parish of conviction;
- b. offense;
- c. docket number;
- d. sentence; and
- e. release dates.

3. A written record pertaining to the dissemination of criminal history record information on sex offenders (see N.1. List of Sex Offenses) shall be maintained at the unit level. The record shall contain the following information:

a. to whom the criminal history record information was disseminated;

b. the date the information was disseminated;

c. the individual to whom the information relates; and

d. a brief description of the information disseminated.

4. The written record pertaining to the dissemination of criminal history record information on sex offenders shall be retained for a period of not less than one year.

F. Release of Information to Crime Victims

1. Both the information contained in a Victim Notice and Registration Form and the fact that a notification request has been made are confidential. Any questions from outside the Department about whether particular persons have requested notification or whether there has been a notification request for particular inmates should be referred to the Crime Victims Services Bureau.

2. Information may be released to victims, witnesses, and others directly injured by the criminal acts of persons under the state's authority in accordance with Department Regulation No. C-01-007 "Crime Victims Services Bureau."

G. Subpoenaed Records

1. Whenever records of an inmate or ex-offender are subpoenaed, they shall be submitted to the appropriate court for a ruling as to whether the information should be turned over to the party who caused the subpoena to be issued. The court shall make this determinate in camera. If the court makes any one of the following determinations, the information shall be withheld:

- a. the information is not relevant to the proceedings; or
- b. the information was derived from communications which were obviously made in the confidence that they would not be disclosed; or
- c. the confidentiality is essential to the future useful relations between the source and the recorder of the information.

2. Should the court authorize disclosure of the records in accordance with the subpoena, the party who caused the subpoena to be issued shall pay a fee for the cost of production of the records in accordance with R.S. 39:241 (see Department Regulation No. A-03-003 "Collection of Fees for Reproduction of Public Records"), unless the court determines that the party has been granted pauper status in accordance with law.

H. Records Not Subpoenaed Submitted to the Courts for Review. The department reserves the right to submit any record to the appropriate court for a ruling as to whether the information should be turned over to the party requesting the information.

I. Access and Release of Medical Records. Access to and release of medical records is governed by Health Care Policy No. HC-33 "Inmate Medical Records."

J. Department's Access to Information and Records of Other Agencies. During the course of any investigation which the department is authorized by law to conduct, or which is necessary for the rehabilitation of persons in the custody of the department, the department shall have access to information and records under the control of any state or local agency which are reasonably related to the rehabilitation of the inmate.

K. Inmate Access to Records. Information contained in the inmate's record shall be confidential and shall not be released to the inmate except in accordance with this regulation.

1. An inmate may have access to his Master Prison Record, a sentence computation worksheet, any court documents that are related to the term of his instant incarceration, non-confidential unusual occurrence reports, disciplinary reports, information related to educational achievements and participation.

2. An inmate may view and make notes of his State Police and/or FBI rap sheet, but shall not be given a copy.

3. An inmate shall not have access to another inmate's active or inactive records.

4. The following is a non-exhaustive list of additional information that will not be accessible to the inmate:

- a. pre-sentence reports;
- b. post-sentence reports;
- c. pre-parole reports;
- d. clemency investigations;

e. information revealing or tending to reveal the identity of confidential informants;

f. admission summary;

g. correspondence from any non-departmental source directed solely to prison officials;

h. correspondence or inquiries originated by institutional personnel;

i. investigations conducted by non-departmental agencies, i.e., District Attorney, State Police, FBI, etc.;

j. investigations conducted by Corrections Services;

k. non-disciplinary court-related institutional investigations; and

l. correspondence from victims or witnesses, including Victim Notice and Registration Forms.

5. Each institution shall establish procedures for inmates to follow when requesting copies of documents from their records and the fees charged for such copies.

L. Information Requests. Verbal requests for information are acceptable. However, the secretary or his designee reserves the right to require a written request before releasing any information. In that case, the individual or agency must certify in writing that they will not release the information to any other agency.

M. Fees. The fee schedule for copies of public records is established in Department Regulation No. A-03-003 "Collection of Fees for Reproduction of Public Records."

N.1. List of Sex Offenses

- a. 14:41 Rape
- b. 14:42 Aggravated Rape
- c. 14:42.1 Forcible Rape
- d. 14:43 Simple Rape
- e. 14:43.1 Sexual Battery
- f. 14:43.2 Aggravated Sexual Battery
- g. 14:43.3 Oral Sexual Battery
- h. 14:43.5 Intentional Exposure of AIDS Virus
- i. 14:78 Incest
- j. 14:78.1 Aggravated Incest
- k. 14:80 Felony Carnal Knowledge of a Juvenile
- l. 14:80.1 Misdemeanor Carnal Knowledge of a Juvenile
- m. 14:81 Indecent Behavior with Juveniles
- n. 14:81.1 Pornography Involving Juveniles
- o. 14:81.2 Molestation of a Juvenile
- p. 14:89 Crime against Nature
- q. 14:89.1 Aggravated Crime against Nature
- r. 14:92(A)(7) Contributing to the Delinquency of Juvenile
- s. 14:93.5 Sexual Battery of the Infirm
- t. 14:283(E) Video Voyeurism

2. A conviction for any offense provided in the above list includes a conviction for an equivalent offense under the laws of another state.

3. A conviction for the attempt of the above offenses shall be considered as a sex offender for the purpose of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:7, 15:540-542, 15:546-548, 15:549(C), 15:574.12, 15:840.1, C.Cr.P. Art. 877 and 894.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, LR 30:

Family Impact Statement

In accordance with the Administrative Procedures Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

Repeal of the current LAC 22:I.101, records of adult offenders and ex-offenders, and adoption of the replacement LAC 22:I.101, access to and release of active and inactive records, will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed Rule amendments.

Interested persons may submit written comments to Richard L. Stalder, Secretary, Department of Public Safety and Corrections, Corrections Services, 504 Mayflower Street, Baton Rouge, LA 70802, or by facsimile to (225) 342-3095. All comments must be submitted by 4:30 p.m., November 20, 2003.

Richard L. Stalder
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Access to and Release of Active and Inactive Records

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units. The Rule provides clarification to the institutions and other as to current procedures for access and release of Department records.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons since this is merely a clarification of procedures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Robert B. Barbor
Deputy General Counsel
0310#037

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

Youth Placement Review Process

In accordance with the Administrative Procedures Act, R.S. 49:953(B), and in order to comply with the Legislative mandates in Act 1225 of the 2003 Regular Session, the

Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its adoption of the Youth Placement Review Process, Department Regulation No. B-02-012, effective September 15, 2003, as an Emergency Rule.

The text of this proposed Rule may be viewed in the Emergency Rule portion of this edition of the *Louisiana Register*.

Family Impact Statement

In accordance with the Administrative Procedures Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides a Family Impact Statement.

The adoption of LAC 22:I.309, youth placement review process, by the department of public safety and corrections, corrections services, will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed Rule amendment.

Interested persons may submit oral or written comments to Richard L. Stalder, Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Capitol Station, Baton Rouge, LA. 70804-9304, (225) 342-6741. Comments will be accepted through the close of business at 4:30 p.m., November 20, 2003.

Richard L. Stalder
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Youth Placement Review Process

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

ACT 1225 of the 2003 Regular Session states by December 31, 2004 Swanson Correctional Center for Youth-Madison Parish Unit shall no longer be used as a juvenile facility. This will result in the reduction of 150 secure beds within the correctional centers for youth. It is estimated that these youth will need non-secure residential or non-residential services. First year costs for those community programs are estimated at \$2,388,750 and will be provided through private sector contracts [(75 residential beds x 182 days (6 months) x \$100 per diem = \$1,365,000) + (75 nonresidential x 182 days (6 months) x \$75 per diem = \$1,023,750) = \$2,388,750]. The subsequent two years cost for community-based programs is approximately \$4,790,625 per year [(75 residential beds x 365 days (12 months) x \$100 per diem = \$2,737,500) + 75 nonresidential x 365 days (12 months) x \$75 per diem = \$2,053,125) = \$4,790,625].

Year 2 (FY 04-05) fiscal impact includes the transition of Swanson Correctional Center for Youth-Madison (SCCY-MAD) to an adult facility for third and fourth offense DWI offenders. The net projected annual fiscal impact for year 2 is \$2,056,378 (\$2,734,247 net savings from transition of youth facility to adult facility plus \$4,790,625 for 150 community program slots). The net projected fiscal impact for Year 3 is \$882,178 (\$3,908,447 net savings plus \$4,790,625).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Federal fund participation will be case specific, but due to federal foster care regulations none of the youth currently in secure care may qualify for participation in Title IV-E. As youth are diverted from the secure system and are placed in community programs, federal participation could approximate 20 percent of the total cost of care. Some local governments should see an impact to sales tax as additional community beds/programs are increased (Locations have not been determined).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Services for community programs are usually obtained through contracts with non-government entities. The dollars allocated for these services will flow directly to those organizations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Employment changes to Madison Parish and the surrounding parishes will be minimized due to the conversion of SCCY-MAD to an adult institution.

Robert B Barbor Deputy General Counsel 0310#002
Robert E. Hosse General Government Section Director Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Correction
Corrections Services

Access to and Release of Active and Inactive
Records C Juvenile (LAC 22:I.102)

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 15:823, and the Administrative Procedures Act, R.S. 49:950, et seq., hereby gives notice of its intent to adopt LAC 22:I.102, Access to and Release of Active and Inactive Records- Juvenile.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT

Part I. Corrections

Chapter 1. Secretary's Office

§102. Access to and Release of Active and Inactive
Records C Juvenile

A. Purpose. To establish the secretary's policy and procedures for access to and release of records of active and inactive juvenile records.

B. Applicability. This regulation applies to all persons employed by the department and those who are under contract with the department. The deputy secretary, assistant secretary of the Office of Youth Development, wardens of juvenile facilities, and the probation and parole program director/juvenile are responsible for implementing this regulation and conveying its contents to all affected persons.

C. Definition

Law Enforcement Agencies C those agencies designed to enforce federal, state or municipal laws and who receive public funds as their primary source for operation, i.e., sheriff's offices, local and state police departments, departments of corrections, state attorneys general, U.S.

attorneys, district attorneys, and the Federal Bureau of Investigation.

D. Release of Information and Records

1. All information obtained on a juvenile shall be confidential and shall not be subject to public inspection or be disclosed directly or indirectly to anyone except in accordance with this regulation. None of the provisions contained herein are intended to restrict the ability of the department to provide any contract facility with full and complete information on any juvenile housed therein.

2. Generally, written consent by the juvenile, parent or guardian or attorney of record is required before a person may be granted access to the juvenile's case files. Access includes viewing the record and receiving copies of documents from a juvenile's record.

3. Release of Initial Documents to Attorney (Initial Contact C No Attorney Client Relationship Yet). Upon receipt of a completed written consent form executed by the juvenile (see Subsection M), the institution may provide copies of the following information to an attorney who has met with the juvenile and requested information:

- a. JIRMS Master (JPRNMASA);
- b. disciplinary reports for the quarter;
- c. court documents;
- d. time computation worksheet;
- e. custody classification/reclassification for the preceding two quarters;
- f. a listing of programs completed including alcohol/drug abuse education. However, no acknowledgment of the juvenile's alcohol/ drug abuse treatment may be given.

4. Release of Records upon Establishment of Attorney Client Relationship. An attorney client relationship sufficient to allow release of a juvenile's record is established upon the occurrence of the following:

- a. juveniles age 18 and older:
 - i. receipt of a written consent form executed by the juvenile (see Subsection N) of his intent to be represented by the attorney named therein;
 - b. juveniles under age 18:
 - i. in order to release information from the record of a juvenile, the institution will require receipt of a written consent form (see Subsection O) executed by the parent/guardian of the juvenile; or
 - c. alternatively, release may also be accomplished through the occurrence of all of the following:

- i. juvenile has affirmed his intent through execution of a written document to enter into an attorney client relationship with a particular attorney or law firm and a release form is executed by the juvenile which allows general access by the attorney to the juvenile's record (see Subsection N). Additionally, if the juvenile intends to allow release of records pertaining to education, alcohol/drug abuse treatment or HIV/AIDS status, the juvenile must execute a specific confidentiality waiver for each individual category of documents; and

- ii. receipt by the institution housing the juvenile of a copy of the letter written by the attorney, notifying the juvenile's parent/guardian that the juvenile has requested the attorney to represent him. The letter must contain language directing the parent/guardian to notify the institution or the court of juvenile jurisdiction, should the parent object to the representation and/or access to records; and

iii. receipt of postal "Proof of Mailing" verifying that the letter in Section D.4.c.i. above has been mailed to the parent/guardian; and

iv. receipt of a written statement made by the attorney attesting that he/she has made efforts to contact the parent/guardian; and

v. at least 10 business days have elapsed since receipt by the institution of all documents listed in Section D.4.c.i. through iv. above, and the parent/guardian has not voiced an objection. Once the attorney client relationship is established whether through a consent form executed by the parent/guardian or through the provision of documents required in Section D.4.c.i through v above, the documents shall be filed in the juvenile's case file at Clip 8. Establishment of the attorney client relationship shall also be entered in the JIRMS.

5. Information on a particular juvenile may be released without special authorization, subject to other restrictions that may be imposed by federal law or by other provisions of state law, to the following:

- a. Board of Parole;
- b. Board of Pardons;
- c. governor;
- d. sentencing judge;
- e. counsel for a juvenile in a delinquency matter;
- f. district attorneys;
- g. law enforcement agencies;
- h. Department of Public Safety and Corrections personnel, including legal representatives and student workers;
- i. appropriate governmental agencies or public official, when access to such information is imperative for the discharge of the responsibilities of the requesting agency, official or court officer and the information if not reasonably available through any other means; and
- j. court officers with court orders specifying the information requested.

6. Fingerprints, photographs, and information pertaining to arrests and disposition of delinquent offenses, as well as information regarding escapes may be released to law enforcement agencies without special authorization.

7. The secretary or his designee may approve the reading of information to the following:

- a. social services agencies assisting in the treatment of juvenile;
- b. appropriate governmental agencies or officials;
- c. approved researchers who have guaranteed in writing anonymity of all subjects.

8. The secretary or his designee may approve selective reading (but not copying) of information by a private citizen or organization aiding in the rehabilitation of, or being directly involved in the hiring of, the juvenile under the following conditions, when:

- a. it appears that the withholding of the information would be to the juvenile's disadvantage;
- b. the requested information is necessary to further the rehabilitation or the likelihood of hiring the juvenile;
- c. the requested information is not reasonably available through other means;

d. the juvenile or his parent or guardian has given written consent for the release of information.

E. Release of Information to Crime Victims

1. Both the information contained in a Victim Notice and Registration Form and the fact that a notification request has been made are confidential. Any questions from outside the department about whether particular persons have requested notification or whether there has been a notification request for particular juveniles should be referred to the Crime Victims Services Bureau.

2. Information may be released to victims, witnesses, and others directly injured by the criminal acts of persons under the state's authority in accordance with Department Regulation No. C-01-007 "Crime Victims Services Bureau."

F. Subpoenaed Records

1. Whenever the records of a juvenile are subpoenaed, they shall be submitted to the appropriate court for a ruling as to whether the information should be turned over to the party who caused the subpoena to be issued. The court shall make this determinate in camera. If the court makes any one of the following determinations, the information shall be withheld:

- a. the information is not relevant to the proceedings; or
- b. the information was derived from communications which were obviously made in the confidence that they would not be disclosed; or
- c. the confidentiality is essential to the future useful relations between the source and the recorder of the information.

2. Should the court authorize disclosure of the records in accordance with the subpoena, the party who caused the subpoena to be issued shall pay a fee for the cost of production of the records in accordance with R.S. 39:241 (see Department Regulation No. A-03-003 "Collection of Fees for Reproduction of Public Records"), unless the court determines that the party has been granted pauper status in accordance with law.

G. Records Not Subpoenaed Submitted to the Courts for Review. The department reserves the right to submit any record to the appropriate court for a ruling as to whether the information should be turned over to party requesting information.

H. Access to and Release of Medical Records. Refer to Department Regulation No. B-06-001J "Health Care" and LSUHSC JCP Policies J/HC-RT 02-01 and 05-01 for specifics governing access to and release of medical records.

I. Department's Access to Information and Records of Other Agencies. During the course of any investigation which the department is authorized by law to conduct, or which is necessary for the rehabilitation of persons in the custody or under the supervision of the department, the department shall have access to information and records under the control of any state or local agency which is reasonably related to the rehabilitation of the juvenile.

J. Juvenile Access to Records. Information contained in the juvenile's record shall be confidential and shall not be released to him except in accordance with the following.

1. A juvenile may, upon request, have access to his JIRMS Master (JPRNMASA); a time computation worksheet; any court documents that are related to his incarceration; disciplinary reports; custody classification/reclassification and case plan.

2. A juvenile shall not have access to another juvenile's record.

3. The following is a list of additional information that will not be accessible to the juvenile (This is not an exhaustive list.):

- a. disposition reports;
- b. social history;
- c. information revealing or tending to reveal the identity of a confidential informant;
- d. unusual occurrence reports;
- e. admission summary;
- f. correspondence from any non-corrections source directly solely to institutional officials;
- g. correspondence or inquiries originated by institutional personnel;
- h. investigations conducted by non-departmental agencies (district attorney, state police, FBI, etc.);
- i. progress notes;
- j. progress reports to the court;
- k. investigations conducted by Corrections Services; and
- l. non-disciplinary court-related institutional investigations.

4. Each institution shall establish procedures for juveniles to follow when requesting copies of documents from their records and the fees charged for such copies.

K. Information Requests. Verbal requests to the department for information may be acceptable. However, the secretary or his designee reserves the right to require a written request before releasing any information. In that case, the individual or agency must certify in writing that they will not release the information to any other agency.

L. Fees. The fee schedule for copies of public records is established in Department Regulation No. A-03-003 "Collection of Fees for Reproduction of Public Records."

M. Consent for Release of Initial Information to Attorney

CONSENT FOR RELEASE OF INITIAL INFORMATION TO ATTORNEY

My name is _____ . My date of birth is _____ . I am in the custody of the Louisiana Department of Public Safety and Corrections and housed at _____ Correctional Center for Youth.

I talked and met with _____ , an attorney at law. I want this attorney and the law firm _____ to have copies of my JIRMS Master (JPRNMASA), disciplinary reports for the quarter, court documents, time computation worksheet, custody classification/reclassification for the two preceding quarters, and a listing of programs I have completed.

Date

Signature

Witness

N. Statement of Representation and Release of Records

STATEMENT OF REPRESENTATION AND RELEASE OF RECORDS

My name is _____ . My date of birth is _____ . I am in the custody of the Louisiana Department of Public Safety and Corrections and housed at _____ Correctional Center for Youth.

I want to have _____ , an attorney at law, represent me.

I give my consent for my record to be copied or looked at by this attorney. This includes records contained in my medical file, mental health information and social history.

I understand that if I want to release certain records to my attorney I must waive my rights of confidentiality specifically as to those records.

_____ By placing my initials here I am confirming that I want to waive my rights as to psychological and psychiatric documents, including but not limited to evaluations, reports and progress notes.

_____ By placing my initials here I am confirming that I want to waive my rights to confidentiality as to these particular records and allow my attorney to view/copy my **education** records.

_____ By placing my initials here I am confirming that I want to waive my rights to confidentiality as to these particular records and allow my attorney to view/copy any **alcohol/drug treatment** information which might be in my record.

_____ By placing my initials here I am confirming that I want to waive my rights to confidentiality as to these particular records and allow my attorney to view/copy any **HIV/AIDS** information which might be in my record.

Date

Signature

Witness

O. Parent/Guardian Consent to Release of Juvenile Records

PARENT/GUARDIAN CONSENT TO RELEASE OF JUVENILE RECORDS

I, _____ , parent/guardian of _____ , a juvenile in the custody of the Louisiana Department of Public Safety and Corrections, do hereby give my consent to release the records of my child to _____ , the attorney representing him/her.

I hereby authorize the above-named attorney to view/receive copies of my child's records. I understand that included in my child's records are social, family-history and medical/mental health information.

Further, I have initialed below where it is my intention to waive my child's confidentiality and specifically authorize release to his/her attorney the following named documents.

_____ By placing my initials here I am confirming that I intend to waive my child's rights as to psychological and psychiatric documents, including but not limited to evaluations, reports and progress notes.

_____ By placing my initials here I am confirming that I intend to waive my child's rights to confidentiality and allow the attorney to view/copy my child's **education** records.

_____ By placing my initials here I am confirming that I intend to waive my child's rights to confidentiality and allow the attorney to view/copy any **alcohol/drug abuse treatment** information which might be in my child's record.

_____ By placing my initials here I am confirming that I intend to waive my child's rights to confidentiality and allow the attorney to view/copy any **HIV/AIDS** information which might be in my child's record.

Date

Signature

Witness

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.12, 15:840.1, 15:909, 39:241, C.Cr.P. Art. 875, and Ch.C.Art. 412

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, LR 30:

In accordance with the Administrative Procedures Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

Adoption of LAC 22:I.102, access to and release of active and inactive records-juvenile, will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed Rule amendments.

Interested persons may submit written comments to Richard L. Stalder, Secretary, Department of Public Safety and Corrections, Corrections Services, 504 Mayflower Street, Baton Rouge, LA 70802, or by facsimile to (225) 342-3095. All comments must be submitted by 4:30 p.m., November 20, 2003.

Richard L. Stalder
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Access to and Release of Active and Inactive Records C Juvenile

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units. The Rule provides clarification to the institutions and other as to current procedures for access and release of Department records.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons since this is merely a clarification of procedures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Robert B. Barbor
Deputy General Counsel
0310#038

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Withholding by Professional Athletic Teams
(LAC 61:I.1520)

Under the authority of R.S. 39:100.1, R.S. 47:164(D), R.S. 47:295, R.S. 47:1511, and R.S. 47:1602.1, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1520 relative to the withholding of Louisiana individual income tax by professional athletic teams for nonresident team members who render services to the team.

Act 1203 of the 2001 Regular Session enacted R.S. 39:100.1, which created a fund in the state treasury called the Sports Facility Assistance Fund (the fund). Each year, the treasurer must pay into the fund an amount equal to the income tax collected by the state from nonresident professional athletes and professional sports franchises on income earned in Louisiana. The monies in the fund are appropriated dollar-for-dollar to the owners of the facilities at which the money that generated the income tax was earned. The purpose of this regulation is to enable the Department of Revenue to accurately attribute the income tax collected from nonresident professional athletes and professional sports franchises to the fund.

Act 119 of the 2003 Regular Session enacted R.S. 39:100.1(D) that authorized the Secretary of Revenue to prescribe regulations necessary to carry out the purposes of R.S. 39:100.1. This proposed regulation will require periodic withholding for professional athletic teams domiciled outside Louisiana on their nonresident team members. It will also clarify that these teams are required to follow current withholding provisions for their team members who are residents of Louisiana.

The full text of this proposed Rule can be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

Family Impact Statement

The proposed adoption of LAC 61:I.1520, regarding withholding by professional athletic teams, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule will have no known or foreseeable effect on:

1. the stability of the family'
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;

5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4:30 p.m., Monday, November 24, 2003. A public hearing will be held on Tuesday, November 25, 2003, at 10:00 a.m. in the Calcasieu Room, on the second floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Withholding by Professional Athletic
Teams**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Implementation of this proposed regulation, which will require periodic withholding for professional athletic teams domiciled outside Louisiana on their nonresident team members, and imposes a penalties for failure to file required withholding tax returns or timely remitting payment, will result in one time expenditures of as much as \$50,000 administrative costs for the department. These costs will be incurred for modifications to withholding and income tax returns, computer program design and specifications, testing and run time. There would be no ongoing cost associated with this legislation. There will be no impact on local government costs.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This proposed regulation might result in additional revenue collections if it encourages compliance with existing law. The amount of revenue that could be generated is indeterminable. However, any penalties collected would be deposited as state general fund revenues. In addition to penalties, any taxes collected due to compliance resulting from this legislation would be deposited in the statutory dedicated Sports Facility Assistance Fund. There will be no effect on revenue collections of local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Any nonresident professional athletic team that pays compensation to a nonresident individual for service rendered to the team within Louisiana shall be required to withhold Louisiana individual income tax from compensation for services rendered for each game played in Louisiana. The team must file a withholding return and remit payment. The return must include a detailed annual reconciliation schedule that includes all team members receiving Louisiana income. Detail for nonresident team members must include total duty days, Louisiana duty days, total compensation, Louisiana compensation, and amount deducted and withheld. An exception can be granted for teams agreeing to file composite returns and remit composite payments. The additional cost of preparing the schedules should be minimal.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0310#047

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Bureau of Licensing**

Adult Residential Care Facility (LAC 48:I.Chapter 88)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, is amending the Louisiana Administrative Code, Title 48, Part I, Subpart 3, Licensing and Certification.

This revision is mandated by Act 301 of the 2003 Regular Session requiring that all adult residential care homes provide for resident support during times of emergency and natural disasters.

Title 48

PUBLIC HEALTHC GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 88. Adult Residential Care Home

§8821. Resident Protection

A. - F.3. ...

a. evacuation of residents to safe or sheltered areas.

Facilities must maintain services for residents in the event of an emergency or natural disaster. No facility may order residents to vacate the facility in advance of an approaching weather event, natural disaster or other emergency.

F.3.b. - H.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2151-2161, and Act 301 of the 2003 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Bureau of Licensing, LR 24:2326 (December 1998), LR 30:

Family Impact Statement

In accordance with Section 972 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted the family impact statement regarding the Rule proposed for adoption, repeal or amendment.

1. What effect will this Rule have on the stability of the family? This Rule requires licensed adult residential care facilities to provide shelter for their residents during times of emergency and natural disasters.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This will have no effect of 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 is not anticipated to have any affect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no affect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? While families may be able provide shelter for family members who reside in adult residential facilities, this assures them that their family members will not be unexpectedly required to seek and/or provide their own shelter during times of emergency or natural disasters.

Interested persons may submit written comments by November 20, 2003 to Thalia Stevenson, Director, Bureau of Licensing, P.O. Box 3076, Baton Rouge, LA 70802. She is the responding authority to inquiries regarding this proposed Rule.

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Adult Residential Care Facility**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This Rule directs adult residential care facilities to maintain services for residents in the event of an emergency or natural disaster. Some facilities may need to revise their emergency plans to reflect this regulation required by Act 301 of the 2003 Regular Session. Other than the cost of printing in the *Louisiana Register*, there will be no implementation costs. The updated information will only be available through our website.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collection of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Residents at licensed adult residential care facilities will not be required to seek or provide for their own shelter in case of an emergency or natural disaster. We are unable to determine the cost to the providers, but anticipate that some providers may incur additional costs related to this proposed Rule. These potential costs cannot be estimated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no impact anticipated on competition or employment.

Thalia Stevenson
Director
0310#075

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Bureau of Licensing**

Transitional Living (LAC 48:1.Chapter 53)

The Department of Social Services, Office of the Secretary, Bureau of Licensing proposes to amend the Louisiana Administrative Code, Title 48, Part 1, Subpart 3, Licensing and Certification. These standards are being enacted per Act 726 of the 2001 Regular Session of the Legislature of Louisiana to include the Transitional Living Program. This Rule is mandated by R.S. 46:1451 et seq.

Title 48

PUBLIC HEALTHC GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 62. Transitional Living

§6201. Purpose

A. It is the intent of the legislature to provide for the care and to protect the health, safety, and well being of youths in the custody or formerly in the custody of the state of Louisiana, who are nearing the age of majority and who, by reason of age, are unlikely to be placed with foster families for adoption. The legislature recognizes that such youth are likely to remain in need of supervision and services, even after reaching the age of majority, to assist them in making the transition from child foster care to independent adulthood. It is the purpose of this policy to establish a system of licensed facilities to care for such persons up to the age of 22; to establish statewide minimum standards; to ensure the maintenance of those standards; and to regulate conditions in these facilities through a program of licensing and inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6203. Authority

A. Act 726 of the 2001 Regular Session directs the Department of Social Services, Bureau of Licensing to develop and publish minimum standards for licensing transitional youth residences. The bureau shall review such standards and, if necessary, revise and amend them at least once every six years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6205. Waivers

A. The secretary of the Department of Social Services may waive compliance with any standard if the intent of the standard is being met and if the health, safety, and well being of the persons in care are not affected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6207. Application for Licensure

A. An application for a transitional youth residence license shall be made by the provider to:

Department of Social Services
Bureau of Licensing
P. O. Box 3078
Baton Rouge, LA 70821

B. There shall be an annual licensing fee of \$200 for each transitional youth residence caring for 6 or fewer youths; \$400 for each transitional youth residence caring for at least 7 but less than 11 youths; and \$600 for each transitional youth residence caring for 12 or more youths.

C. The Department of Social Services, Bureau of Licensing has the power to deny, revoke, or refuse to renew a license for a transitional youth residence if the applicant has failed to comply with the provisions of this policy.

D.1. Upon the refusal of the Bureau of Licensing to grant or renew a license or upon the revocation of a license, the applicant or licensee shall have the right to appeal such action by submitting a written request within 10 days of the receipt of the notification of the refusal or revocation to:

Bureau of Appeals
P. O. Box 2944
Baton Rouge, LA 70821

2. The appeal hearing shall be held no later than 30 days after the request.

E. Whoever operates a transitional youth residence without a valid license or in violation of this policy after being notified of such violation and being given an opportunity to correct such violation, shall be fined not less than \$75 or more than \$250 for each day of such offence. The Department of Social Services may file suit in the District Court for the parish in which the facility is located for injunctive relief.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6209. Definitions

Abuse the infliction of physical or mental injury on an individual by other parties, including but not limited to such means as sexual abuse, exploitation, or extortion of funds or other things of value, to such an extent that his/her health, self-determination, or emotional well-being is endangered.

Administrator the owner or the manager designated by the governing body as responsible for the management, administration, and supervision of the program.

DSS the Department of Social Services.

Documentation written evidence or proof, signed and dated.

Human Services Field means psychology, sociology, special education, rehabilitation counseling, juvenile justice, corrections, nursing, etc.

Shall or Must indicates mandatory standards.

Transitional Youth Residence means any communal or supervised independent living arrangement existing for the primary purpose of providing care for at least 2, but less than

20, youths living in individualized apartment units, alone or jointly with other youths, under the supervision, custody or control, directly or indirectly, of the Office of Community Services.

Transitional Youth Residence Program means a program of services, including counseling, guidance, vocational or education training, and supervision for youths living in transitional youth residences.

Transitional Living a program to provide care, supervision, vocation and education training, guidance and counseling for youth between the ages of 16 and 21 in the custody or formerly in the custody of the Office of Community Services, living in their own apartments (congregate or individual) to assist them in making the transition to adult living.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6211. Inspections

A. The Department of Social Services, Bureau of Licensing shall inspect at regular intervals not to exceed one year, or deemed as necessary by the bureau, and without prior notice, all transitional youth residence administrative offices subject to the provisions of this policy. The facility shall be open to inspection by authorized DSS personnel during working hours or at all times when youths are in care.

B. The bureau shall also investigate all complaints except those alleging abuse against a youth resident and those concerning the prevention and spread of communicable diseases. The bureau may take such action as is authorized in the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6213. General Requirements

A. A provider shall allow designated representatives of DSS in the performance of their mandated duties to inspect all aspects of a provider's functioning which impact the youth and to interview any staff member or youth.

B. A provider shall make available to DSS any information that the provider is required to have under the present requirements and any information reasonably related to assessment of compliance with these requirements.

C. A provider will furnish adequate space for the representatives of DSS to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6215. Governing Body

A. A provider shall have an identifiable governing body with responsibility for and authority over the policies and activities of the program. The provider, whether it is a corporation, partnership or association, shall identify the names and addresses of its members and officers and shall, where applicable, have a charter, partnership agreement, constitution, and articles of association or by-laws.

B. A provider shall have documents identifying all members of the governing body; their addresses; their terms

of membership; any officers of the governing body; and terms of office of any officers.

C. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year.

D. When the governing body is composed of more than one person, a provider shall have written minutes of all formal meetings of the governing body and by-laws specifying frequency of meetings and quorum requirements.

E. A private provider shall have documentation of its authority to operate under state law.

F. The provider's governing body shall:

1. ensure the provider's compliance and conformity with the provider's charter;
2. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;
3. ensure that the provider is adequately funded and fiscally sound;
4. review and approve the provider's annual budget;
5. designate a person to act as director and delegate sufficient authority to this person to manage the facility;
6. formulate and annually review, in consultation with the director, written policies concerning the provider's philosophy, goals, current services, personnel practices, and fiscal management;
7. annually evaluate the director's performance;
8. have the authority to dismiss the director;
9. meet with designated representatives of DSS whenever required to do so;
10. inform designated representatives of DSS prior to initiating any substantial changes in the services provided; and
11. ensure that the director or a person authorized to act on behalf of the director shall be accessible to staff or designated representatives of DSS at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6217. Accounting

A provider shall not permit public funds to be paid, or committed to be paid, to any person to whom any of the members of the governing body, administrative personnel, or members of the immediate families of members of the governing body or administrative personnel have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the facility. The provider shall have a written disclosure of any financial transaction with the facility in which a member of the governing body, administrative personnel, or his/her immediate family is involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6219. Administrative Files

A. The provider shall maintain records that cover the basic administrative requirements of running a facility.

B. The administrative files shall include at least:

1. an organizational chart of the provider;
2. all leases, contracts and purchase-of-service agreements to which the provider is a party;
3. insurance policies issued in the name of the provider that include commercial comprehensive liability and coverage for any owned and non-owned vehicles utilized to transport clients;
4. annual budgets;
5. master list of all social service providers and other contractors used by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6221. Program Description

A. A provider shall have a written program description describing:

1. the overall philosophy and approach to supervised transitional living;
2. the long-term and short-term goals;
3. the types of youth best served;
4. the provider's approach to service planning;
5. ongoing programs available to the youth during placements; and
6. any living arrangements provided.

B. The provider must include a written description of direct services, support services, and services to be arranged to achieve the goals of the transitional living program.

1. Direct services shall include, but are not limited to, the following:

a. services related to education and vocational training e.g.: career planning; preparation for the GED or higher education; job readiness; job search assistance; job placement; job follow-up activities; vocational training; tutoring and other remedial education;

b. programs and services in basic independent living skills e.g.: money management; home management (housekeeping, etc.); consumer skills; identifying community resources; time management; communication skills; use of transportation; physical and mental health care; locating safe and stable housing; problem solving/decision making; sex education; menu planning and nutrition; cooking;

c. individual and/or group counseling as well as workshops and conferences to promote: self-esteem; self confidence; development of interpersonal and social skills; preparation for transition to independence and termination of services; after care.

2. Support services shall include, but not be limited to, the following: vocational assessment or training; GED classes; preparation for college entrance exams; driver's education, if appropriate; counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6223. Records

A. A provider shall ensure that all entries in records are legible, signed by the person making the entry, and accompanied by the date on which the entry was made.

B. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of in accordance with state laws.

C. A provider shall have sufficient space, facilities and supplies for providing effective record keeping services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6225. Confidentiality and Security of Files

A. A provider shall have a written policy and procedure for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider and he/she, as custodian, shall secure records against loss, tampering, or unauthorized use.

B. A provider shall maintain the confidentiality of all youths' case records. Employees of the provider shall not disclose or knowingly permit the disclosure of any information concerning the youth or his/her family directly or indirectly, to any unauthorized person.

C. When the youth is of majority age or emancipated, a provider shall obtain the youth's written informed permission prior to releasing any information from which the youth or his/her family might be identified.

D. When the youth is a minor, a provider shall obtain written informed consent from the legally responsible person prior to releasing any information from which the youth might be identified.

E. A provider shall, upon request, make available information in the case record to the youth, the legally responsible person, or legal counsel of the youth.

F. A provider may use material from case records for teaching or research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided that names are deleted and other identifying information are disguised or deleted.

G. A provider shall not release a personnel file without the employee's permission except in accordance with state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6227. Staffing Requirements

A. There shall be a director responsible for the day-to-day administration of the program who has at least a bachelor's degree in a human service field, one year of experience relative to the population being served, and is at least 21 years of age. Documentation of director's qualifications shall be on file.

B. There shall be a qualified professional who will have the responsibility for supervising the client's individual service plan. This person shall have at least a bachelor's degree in a human service field and one year of experience relative to the population served (one person can serve in the capacity as director and qualified professional).

C. A provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff

to carry out the responsibilities the provider undertakes and to adequately perform the following:

1. administrative functions;
2. fiscal functions;
3. clerical functions;
4. direct youth service functions;
5. supervisory functions;
6. record keeping and reporting functions;
7. social service functions;
8. ancillary service functions.

D. A provider shall ensure that all staff members are properly supervised, certified and/or licensed as legally required.

E. A provider shall ensure that there is staff immediately accessible to the youth 24 hours a day, 7 days a week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6229. Staff Plan and Practices

A. A provider shall have a written plan for recruitment, screening, orientation, on-going training, development, supervision, and performance evaluations of staff members.

B. There shall be written job descriptions for each staff position.

C. The provider shall have a written employee grievance procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6231. Personnel File

A. A provider shall have a personnel file for each employee which shall contain:

1. the application for employment and/or résumé;
2. three reference letters from former employer(s) and personal references or phone notes on such references to assess applicant's qualifications;
3. criminal record clearance;
4. evidence of applicable professional credentials/certifications;
5. job description;
6. annual performance evaluations;
7. personnel actions, reports and notes relating to the individual's employment with the provider;
8. employee's starting and termination dates;
9. driver's license to operate a vehicle used to transport clients (if applicable).

B. The staff member shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6233. Orientation

A. A provider's orientation program shall provide at least 16 hours of training for all direct service workers within one week of the date of employment to include the following topics:

1. philosophy, organization, program, practices and goals of the provider;
2. instructions in the specific responsibilities for the employee's job;
3. implementation of the transitional living plan;
4. emergency and safety procedures including medical emergencies;
5. detecting and reporting suspected abuse and neglect;
6. reporting critical incidents;
7. rights of youth;
8. crisis de-escalation and management of aggressive behavior;
9. assistance with self-administration of medications;
10. universal precautions;
11. methods of facilitating youth development training;
12. issues of adolescents and young adults.

B. A new employee shall sign a statement of understanding certifying that such training has occurred.

C. A new employee shall not be given sole responsibility for the implementation of the service plan until training is completed.

D. Each employee having direct care responsibilities shall have current first aid certification that shall be obtained within the first 30 days of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6235. Training

A. A provider shall ensure that each direct service worker participated in an annual review of all the orientation topics.

B. Current first aid certification shall be obtained for employees having direct care responsibilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6237. Staff Communications

A. A provider shall establish procedures to assure adequate communication among staff to provide continuity of services to the youth. Written documentation shall be maintained.

B. Any employee of a provider working directly with youth in care shall have access to information from the youths' case records that is necessary for effective performance of the employee's assigned tasks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6239. External Professional Services

A provider shall, as necessary, give assistance to youth in obtaining any required professional services not available from employees of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6241. Admission Policy

A. A provider shall have a written description of an admission policy that shall include the following information:

1. written description of the admission criteria as provided to all placing agencies;
2. the age and sex of the youth to be served by the provider;
3. the needs, problems, situations or patterns best addressed by the provider;
4. pre-admission skills and other criteria for successful participation in and completion of the program; and
5. criteria for discharge as well as the termination of admission agreement;

B. A provider shall not refuse admission to any youth on the grounds of race, color, sex, religion, national origin, handicap, or any non-merit factor in accordance with all state and federal guidelines.

C. A provider shall not accept any youth whose needs cannot be adequately met by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6243. Service Agreement

A. The provider shall ensure that a written service agreement is completed prior to placement. A copy of the agreement, signed by the provider, the youth, if applicable the legally responsible party and all those involved in its formulation, shall be kept in the youth's record and a copy shall be available to DSS, the youth, and where appropriate, the legally responsible person.

B. The service agreement shall include:

1. a delineation of the respective roles and responsibilities of the provider and where applicable, the referring agency;
2. specification of all services to be provided including the plan for contact between the youth and provider staff;
3. facility rules that will govern continued participation in the transitional living program, and consequences of inappropriate behavior of youth while in care;
4. the provider's expectations concerning the youth and the youth's responsibility;
5. criteria for discharge;
6. specification of financial arrangements including any fees to be paid by the youth;
7. authorization to care for the youth;
8. authorization for medical care;
9. attendance and absences from the provider to also include curfew times; and
10. criteria for notifying the funding agency of any change of address of the youth and any significant change in the youth's life or program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6245. Service Planning

A. A provider shall make every effort to ensure that service and program planning for each youth is a comprehensive process involving appropriate provider staff; representatives of the referring agency; where appropriate, representatives of other significantly involved agencies; the youth; where appropriate, the legally responsible person; and any other person significantly involved in the youth's life on an ongoing basis.

1. The director, qualified professional, or a designated staff who meets the director qualifications, shall be responsible for the coordination and development of the transitional living plan.

2. A provider shall ensure the youth is in attendance during the development of his/her transitional living plan.

B. Following acceptance of a youth, a provider shall conduct an assessment of his/her transitional living skills and annually thereafter. The assessment shall include the following:

1. life safety skills including ability to access emergency services, basic safety practices and evacuation of the living unit;

2. physical and mental health care; (i.e., health maintenance, scheduling physician appointments);

3. recognizing when to contact a physician;

4. money management, budgeting, and consumer awareness (i.e. paying bills, shopping, food management, sources of income, credit);

5. self-administration of medication;

6. stated purpose and possible side effects of medications prescribed for the youth and other common prescription and non-prescription drugs and other drug use;

7. career planning/career interests;

8. use of transportation (i.e. ability to access public transportation, learning to drive, obtaining insurance);

9. social skills;

10. daily living skills (i.e., housekeeping, cooking, personal appearance, and grooming skills);

11. vocational/job skills/job seeking skills (i.e., employment experience, training);

12. identifying community resources;

13. education (i.e., current grade level; education goals/expectations/plans);

14. locating housing;

15. problem solving/decision making;

16. time management (punctuality and attendance);

17. communication skills;

18. parenting skills;

19. legal issues, knowledge of legal rights; and

20. use of recreation and leisure time.

C. On the basis of the transitional living skill assessment, a provider shall, within one month of placement, formulate a transitional living plan for the youth. The plan shall include:

1. the youth's long term goals;

2. time-limited, measurable objectives addressing training in skill areas identified as needs;

3. the type and frequency of supervision needed;

4. the identification of roles and responsibilities of all persons involved (youth, provider, and others) in the implementation of the plan;

5. the life skills and the criteria necessary for achieving a successful discharge; and

6. the preliminary plan for discharge and aftercare.

D. The plan shall be reviewed monthly and shall be revised whenever necessary. A written progress report shall be completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6247. Youth's Case Record

A. A provider shall have a written record for each youth that shall include:

1. the name, sex, race, birth date and birthplace of the youth; address of youth's current place of employment, school or other service providers;

2. other identification data including court status and legal status, identifying who is authorized to give consent;

3. youth's history including, where applicable, family data, educational background, employment record, prior medical history and prior placement history;

4. the service agreement;

5. written authorization signed by the youth or, when appropriate the legally responsible person for emergency medical care;

6. written authorization signed by the youth or, when appropriate the person legally responsible for managing the youth's money;

7. assessment of the youth's independent living skills;

8. a copy of the youth's individual service plan and any modifications or updates of the service plan;

9. monthly progress reports;

10. the names, addresses and phone numbers of the youth's physician and dentist;

11. psychological and psychiatric evaluation, if applicable;

12. dates of admission and discharge;

13. signed acknowledgement of rights and grievance procedures; and

14. incident reports.

B. A provider shall maintain health records on a youth including:

1. a description of any serious or life threatening medical condition of the youth;

2. a description of any medical treatment or medication necessary for the treatment of any serious or life threatening medical condition together with the provider's provisions for ensuring the youth's access to such medication or treatment;

3. current medications; and

4. report of general medical examination by a physician within a year prior to admission and annual exams; and

5. dental exams.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6249. Accounting for Youth's Money

A. A provider shall have a written policy describing how they will manage the youth's money.

B. A provider shall only accept a youth's money when such management is mandated by the youth's service plan.

The provider shall manage and account for money of youth who are minors.

C. Providers who manage youth's money shall maintain in the youth's file a complete record accounting for his/her money.

1. The provider shall maintain a current balance sheet containing all financial transactions to include the signature of staff and the youth for each transaction.

2. The money shall be kept in an individual account in the name of the youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6251. Supervision and Support

A. A provider shall have a written plan for providing support and supervision to youth in transitional living situations. This plan shall ensure:

1. regular contact between provider personnel and the youth daily and at least two face-to-face visits weekly in the youth's apartment. A youth may not be seen less than the above amount unless specified by his/her plan, which has been signed by the parent or legal guardian;

2. all contacts with the youth shall be documented; and

3. provisions for emergency access by youth to an appropriate provider staff member on a 24-hour basis.

B. A provider shall, through at least monthly visits by staff to the living situation, determine and document that:

1. there is no reasonable cause for believing that the youth's mode of life or living situation presents any unacceptable risks to the youth's health or safety;

2. the living situation is maintained in a clean and safe condition;

3. the youth is receiving any necessary medical care;

4. the current provider plan provides appropriate and sufficient services to the youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6253. Rights and Grievance Procedures for Youth

A. The provider shall have a written policy on youths' rights. A copy will be given to the youth to review and sign. The signature page will be maintained in the youth's record. The policy shall assure the youth:

1. are free from physical or psychological abuse or neglect, and from financial exploitation;

2. are able to consult freely and privately with his/her parent(s) or legal guardian(s);

3. are able to possess and use personal money and belongings;

4. are actively and meaningfully making decisions affecting his/her life;

5. are allowed to have privacy;

6. are allowed visits to and from his/her family and friends;

7. are not required to work without compensation;

8. are treated with dignity and respect;

9. are provided due process;

10. have access to records, including information about their finances;

11. participate in self-directed service planning which is developed and modified timely;

12. are provided adequate and appropriate assistance in meal planning;

13. shall not be deprived of any civil or legal rights, benefits, or privileges guaranteed by law or the Constitution of the United States;

14. shall not be denied admission to a program, segregated, or discriminated against on the basis of race, sex, handicap, creed, national background or ancestry, sexual orientation, political beliefs, or any other non-merit factor;

15. are provided access to professional and specialized services, as appropriate;

16. shall be free from mental, emotional, and physical abuse and neglect and assured that no chemical restraints will be used;

17. shall be allowed to participate in religious services in accordance with his/her faith, but shall not be forced to attend religious services;

18. shall be encouraged and assisted to exercise rights as a citizen; to voice grievances;

19. shall be free to consult with legal counsel of their choice;

20. are allowed to meet with representatives of the Bureau of Licensing as well as other state officials.

B. The provider shall have a written grievance policy and procedures for youth designed to allow them to make complaints without fear of retaliation. The youth shall be informed of the advocacy services available.

1. The provider shall make every effort to ensure that all youth are aware of and understand the grievance procedure.

2. The youth's records shall contain a record of any grievances and their resolutions.

C. The provider shall develop written procedures for a Youth Advisory Board consisting of youth representatives receiving services to provide feedback relative to program policies, practices, and services.

1. The Youth Advisory Committee shall be allowed to meet at least monthly.

2. The provider shall maintain documented minutes of the Youth Advisory Board and resolutions of problems addressed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6255. Reporting of Critical Incidents and Abuse and Neglect

A. A provider shall have a written policy and procedures for the reporting and documentation of unusual incidents and other situations or circumstances affecting the health, safety or well being of the youth (i.e., accident or injury to the youth, unexplained overnight absences, death, fights or physical confrontations, suspected incidents of abuse or neglect, etc.).

1. Such procedures shall ensure timely verbal reporting to the director or designee and a preliminary written report within 24 hours of the incident.

2. Copies of all critical incident reports shall be kept as a part of the youth's record.

B. A provider shall have comprehensive written procedures concerning abuse and neglect to include provisions for:

1. training and maintaining staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws;

2. ensuring that regulations for reporting critical incidents involving abuse and neglect are followed;

3. ensuring that the administrator completes an investigation report within 10 working days;

4. ensuring that the youth is protected from potential harassment during the investigation;

5. disciplining staff members who abuse or neglect youth; and

6. ensuring that the staff member involved does not work directly with the youth involved or any other youth in the program until the investigation is complete.

C. When and if an incident occurs, a detailed report of the incident shall be made. At a minimum, the incident report shall contain the following:

1. a brief description of the incident;

2. date and time the incident occurred;

3. where the incident occurred;

4. action taken as a result of the incident;

5. name and signature of the person who completed the report and the name(s) of person(s) who witnesses the incident; and

6. date and time and name of responsibility party notified.

D. In the event an incident results in the death of a youth, involves abuse or neglect of a youth, or entails any serious threat to the youth's health, safety or well being, the provider shall:

1. immediately report to the placing agency with a preliminary written report within 24 hours of the incident;

2. immediately notify the appropriate law enforcement authority in accordance with state law;

3. immediately notify the Bureau of Licensing and other appropriate authorities, according to state law, with written notification to the above agencies to follow within 24 hours of the suspected incident;

4. immediately notify to the family or representative of the youth, with written notification to follow within 24 hours;

5. provide follow-up written reports to all the above persons and agencies; and

6. document appropriate corrective action taken to prevent future incidents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6257. Behavior Management

A. A provider shall have a written description of any behavior management strategies to be utilized.

B. No strategy shall deny any of the youth's rights unless approved by the individual plan of care.

C. The youth's record shall document that he/she has acknowledged receiving a copy of the behavior management strategies at admission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR

§6259. Transportation

A. A provider shall ensure that every vehicle used by provider staff to transport youth is properly maintained, inspected, licensed according to state laws, and insured.

B. Any youth who drives must be properly licensed to operate any vehicle which he/she drives and has the required insurance coverage. The youth's record must contain this documentation,

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6261. Physical Environment

A. A provider shall ensure and document in the youth's record that any living situation selected by the provider for the use of youth is:

1. accessible to and functional for the youth, taking into consideration any handicapping condition or other disability of the youth;

2. free from any hazard to health or safety;

3. properly equipped with useable facilities for sleeping, food storage and preparation, sanitation, bathing, personal hygiene and household cleaning;

4. in compliance with applicable health, safety, sanitation and zoning codes. The provider shall, on request, allow DSS to inspect any living situation;

5. each resident shall have his or her own bed; and

6. living situations shall be equipped with operable smoke detectors and fire extinguishers.

B. A provider shall ensure and document in the youth's record that any youth placed in a transitional living situation selected by the provider has:

1. 24-hour access to a telephone;

2. access to transportation; and

3. access to any services mandated by the youth's service program plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6263. Capacity

A. A provider shall ensure that no more than three youths are placed in an apartment utilized as a transitional living situation.

B. A provider who utilizes communal living arrangements (home situation) housing four or more must obtain fire and health approval.

C. A provider's arrangements for selecting youth and youth groups for a specific living situation shall make allowance for the needs of each youth for reasonable privacy and shall not conflict with the program plan of any resident of the living situation or with the overall philosophy of the provider.

D. No youth shall be placed together in a living situation except by mutual agreement between the youth. Signed agreements shall be maintained in each client's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6265. Emergency Procedures

A. The provider shall ensure the development of an emergency evacuation policy and safety plan for each client that is specific for location of the living unit in the event of a fire, natural or national disaster. The youth's record shall document that the youth has acknowledged receiving a copy of this policy and plan at admission.

B. A provider shall document that all youth are trained in emergency procedures within one week of admission. Such training shall include:

- 1. instruction in evacuation from the living situation;
- 2. instruction in contacting police, fire and other emergency services; and
- 3. instruction in fire and accident prevention.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6267. Food Service

A. When meals are prepared in a central kitchen, the provider shall ensure that menus include the basic four food groups and each youth's nutritional needs are met. Menus shall be maintained on file for at least a month.

B. If youths develop and prepare their menus and meals, the provider shall give assistance to ensure nutritional standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

§6269. Discharge

A. A provider shall have a written discharge policy detailing the reasons a youth may be discharged.

B. A provider shall, whenever possible, notify the placing agency and the youth's parent(s), tutor or curator as soon as possible or within five working days prior to the planned discharge of a youth.

C. A provider shall compile a complete written discharge summary immediately upon discharge; such summary to be included in the youth's record. When the youth is discharged to another agency, this summary must accompany the youth. This summary shall include:

- 1. a summary of services provided during involvement in the program;
- 2. a summary of growth and accomplishments during involvement;
- 3. the assessed needs which remain to be met and alternate service possibilities that might meet those needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:

Family Impact Statement

In accordance with Section 972 of title 49 of the Louisiana Revised Statutes, there is hereby submitted the family impact statement regarding the rule proposed for adoption, repeal or amendment.

1. What effect will this rule have on the stability of the family? It is the intent of this rule to provide for the care and to protect the health, safety, and well being of youths in transition from being in the custody of the state of Louisiana, who are nearing the age of majority and who, by reason of age, are unlikely to be placed with foster families for adoption. It should not adversely 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? Since these youth are in the custody of the state, there should not be any affect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This rule is not anticipated to have any affect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no affect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? This program should be beneficial to the behavior and personal responsibility of the youth involved in this program.

6. Is the family or local government able to perform the function as contained in this proposed rule? The youth involved in this program are those who are currently in state custody, therefore the family is not performing its usual function.

Interested persons may submit written comments within the next 20 days to Thalia Stevenson, Director, Bureau of Licensing, P.O. Box 3078, Baton Rouge. LA 70821-3078.

Public hearings on this proposed rule will be held on Monday, November 24, 2003 at the Bureau of Licensing, 2751 Wooddale Blvd. Suite 330, Baton Rouge, LA from 10 a.m. to 11 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing at the public hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Transitional Living**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This is a new program authorized by Act 726 of the 2001 Regular Session. Other than the cost of printing, there are no other implementation costs to state or local governmental units associated with this proposed rule to adopt minimum licensing standards.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Department of Social Services will collect licensing fees from facilities that are licensed under this category. The fees are based on the capacity of the facility: \$200 for 6 or fewer residents, \$400 for at least 7 but less than 11 residents,

and \$600 for 12 or more residents. There is no way to determine the number of providers who will apply for a license. However, we anticipate that four providers, currently licensed incorrectly, will apply for this license and will generate up to \$2,400 in licensing fees. The four facilities currently serving this population use federal grant money to pay for their operations. Since these four facilities are currently licensed under another program category, there should be no increase in the workload for DSS. There should be no additional state costs.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no costs, other than the licensing fee, to directly affected persons or non-governmental groups. There is no way to determine the number of providers who will apply for a license. However, we anticipate at least the four providers who currently work with this population will apply for this license costing up to \$2,400. Each provider is currently licensed through the Supervised Independent Living Program that has no capacity requirement. The Transitional Living Program has a capacity-based license. Additional costs may be incurred if the provider chooses to assist more youth than they now serve. These potential costs cannot be estimated. There are no known additional costs to these providers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are currently facilities contracting with the Office of Community Services to provide these services. These facilities are already licensed. There should be no impact on competition and employment.

Thalia Stevenson
Director
0310#074

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Highways/Engineering**

**Wireless Telecommunications Permit
(LAC 70:II.Chapter 15)**

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 Chapter 15 of Part II of Title 70 entitled ADOTD Wireless Telecommunications Permit, in accordance with R.S. 48:381.2.

Title 70

**TRANSPORTATION
Part II. Utilities**

**Chapter 15. DOTD Wireless Telecommunications
Permit**

§1509. Fees

A. The following fees shall apply to wireless telecommunications installations placed within state highway rights-of-way.

Type of Tower	Annual Fee
Self-Supporting Tower/Antenna	\$3,500
Monopole/Antenna	\$2,000
Attachments to Existing Utility/Light Poles	\$1,500
Co-Location on DOTD Tower	\$3,500
Video Cameras	Supply feed to DOTD

B. Repealed.

C - E ...

F. The department may waive fees for those permit applicants who erect facilities, attachments or cameras for the use of the department or other state agencies or political subdivisions to conduct departmental or state work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:98 (January, 1999); amended LR 30:

§1513. Co-Location

A. ...

B. Wireless facility operators, in certain instances, may be permitted to strengthen DOTD-owned towers, at the sole cost of the wireless facility operator, to provide additional structural capacity for multiple users. Alternatively, the tower structure may be replaced, rather than modified. Ownership of the new or modified tower and responsibility for maintaining the tower shall be negotiated prior to issuance of the permit, and shall be stated on the front of the permit. Applicant shall submit a structural analysis with the permit application. DOTD retains the right in perpetuity to have its antennae, pre-existing or added subsequent to permit issue, mounted on the new or modified tower.

C - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:99 (January, 1999), amended LR 30:

Family Impact Statement

The proposed adoption of this amendment to a Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family.
2. The implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.
3. The implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family.
4. The implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budget.
5. The implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.
6. The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

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 Sherryl J. Tucker, Senior Attorney, P.O. Box 94245, Baton Rouge, LA 70804, telephone (225)237-1359.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Wireless Telecommunications Permit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no cost to implement the proposed Rule change. DOTD has had a program for utility installation within highway rights-of-way in place since the early 1950's and has permitted wireless tower installations since 1999. This rulemaking makes technical changes in existing Rules and reduces the fees to be assessed in order to attract more permittees.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Although the fees to be charged for installation of wireless towers within the highway rights-of-way will decrease, it is anticipated that revenues will increase. Under the current schedule, there is only permittee who currently pays the department \$15,000 per year. It is anticipated that lower fees will encourage new permittees and that revenue for FY 2003-2004 and subsequent years could increase significantly, however, the department cannot accurately estimate this potential increase because any such impact will depend upon private business decisions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The wireless telecommunications industry, which will be directly affected by this rulemaking, should see an economic benefit because new, undeveloped areas will be available for towers at a lower rate than in the existing rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule should have a positive effect on competition and employment.

Kam K. Movassaghi, P.E., Ph.D.
Secretary
0310#045

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of the Treasury
Parochial Employees' Retirement System**

Internal Revenue Code Provisions (LAC 58:XI.Chapter 1)

Editor's Note: This Notice of Intent was promulgated in the August 2003 edition of the Louisiana Register on pages 1750-1756, and is being repromulgated to comply with standards set forth in R.S. 49:950 et seq.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees for the Parochial Employees' Retirement System has approved for advertisement the adoption of Chapter 1 of Part XI, included in Title 58, Retirement, of the *Louisiana Administrative Code*. This intended action complies with the statutory law administered by the Board of Trustees for the Parochial Employees' Retirement System. The proposed Rules are being adopted pursuant to newly reenacted R.S. 11:1931 (Acts 2003, Number 537, §§1 and 5), the effective date of reenactment of which will be the formal adoption of these Rules. Newly reenacted R.S. 11:1931 provides that Rules and Regulations be adopted which will assure that the Parochial Employees' Retirement System will remain a tax-

qualified retirement plan under the United States Internal Revenue Code and the regulations thereunder. Newly repealed R.S. 11:1930, 1930.1, 1930.2, 1930.3 and 1931 (Acts 2003, Number 537, §§1, 2 and 5), the effective date of repeal of which will be the formal adoption of these Rules, has contained these tax-qualification provisions, which are now being embodied under these proposed Rules without any change to the text. A preamble to this proposed action has not been prepared.

**Title 58
RETIREMENT**

**Part XI. Parochial Employees' Retirement System
Chapter 1. Internal Revenue Code Provisions**

§101. Limitation on Payment of Benefits

A.1. Unless the member has elected otherwise on or before December 31, 1983, the entire benefit of a member shall be distributed over a period not longer than the longest of the following periods:

- a. the member's life;
- b. the life of the member's designated beneficiary or the joint and last survivor lives of the member and his designated beneficiary;
- c. the member's life expectancy;
- d. the joint life and last survivor life expectancy of the member and his designated beneficiary.

2. If the member is married and his spouse survives him, the designated beneficiary shall be his spouse. If a member dies after the commencement of his benefits, the remaining portion of his benefit shall be distributed at least as rapidly as before his death.

B.1. If the member dies before his benefit has commenced, the remainder of such interest shall be distributed to the member's beneficiary within five years after the date of such member's death.

2. Paragraph 1 shall not apply to any portion of a member's benefit which is payable to or for the benefit of a designated beneficiary or beneficiaries, over the life of or over the life expectancy of such beneficiary, so long as such distributions begin not later than one year after the date of the member's death, or, in the case of the member's surviving spouse, the date the member would have attained the age of 70 1/2 years. If the designated beneficiary is the member's surviving spouse and if the surviving spouse dies before the distribution of benefits commences, then Paragraph 1 shall be applied as if the surviving spouse were the member. If the designated beneficiary is a child of the member, for purposes of satisfying the requirement of Paragraph 1, any amount paid to such child shall be treated as if paid to the member's surviving spouse if such amount would become payable to such surviving spouse, if alive, upon the child's reaching age 18.

3. Paragraph 1 shall not apply if the distribution of the member's interest has commenced and is for a term certain over a period permitted in Subsection B.

C. If a survivor benefit is payable to a specified person or persons or if a benefit is payable at death under an option elected pursuant to R.S. 11:1932, the member shall be considered to have designated such person as a designated beneficiary hereunder. If there is more than one such person, then the oldest such person shall be considered to have been so designated, or, if none, then the oldest person entitled to receive a survivor benefit shall be considered to have been

so designated. The designation of a designated beneficiary hereunder shall not prevent payment to multiple beneficiaries but shall only establish the permitted period of payments.

D. Distributions from the system shall be made in accordance with the requirements set forth in Internal Revenue Code Section 401(a)(9), including the minimum distribution incidental benefit rules applicable thereunder.

E.1. A member's benefits shall commence to be paid on or before the required beginning date.

2. The required beginning date shall be April 1 of the calendar year following the later of the calendar year in which the member attains 70 1/2 years of age, or the calendar year in which the employee retires.

F. The provisions of this Section shall be effective July 1, 1987.

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

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

§103. Early Payment of Benefits

A. In the event of plan termination, the benefit of any highly compensated employee including an active highly compensated employee and a former employee who was a highly compensated employee, is limited to a benefit that is nondiscriminatory under Internal Revenue Code, Section 401(a)(4) (see 26 U.S.C. 401 et seq.)

B.1. For plan years beginning on or after January 1, 1991, benefits distributed to any of the 25 most highly compensated active and former highly compensated employees are restricted such that the annual payments are no greater than an amount equal to the payment that would be made on behalf of the employee under a single life annuity that is the actuarial equivalent of the sum of the employee's accrued benefit and the employee's other benefits under the plan.

2. Subsection A of this Section shall not apply if:

a. after the payment of the benefit to an employee described in Paragraph 1 of this Subsection, the value of plan assets equals or exceeds 110 percent of the value of current liabilities as defined in Internal Revenue Code Section 412(1)(7); or

b. the value of the benefits for an employee described above is less than 1 percent of the value of current liabilities.

3. For purposes of this Section, benefit includes loans in excess of the amount set forth in Internal Revenue Code Section 72(p)(2)(A), any periodic income, any withdrawal values payable to a living employee, and any death benefits not provided for by insurance on the employee's life.

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

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

§105. Compensation Limited

A. In addition to other applicable limitations set forth in the plan, and notwithstanding any other provisions of the plan to the contrary, for plan years beginning on or after January 1, 1994, the annual compensation of each employee taken into account under the plan shall not exceed the Omnibus Budget Reconciliation Act of 1993 annual

compensation limit. The Omnibus Budget Reconciliation Act of 1993 annual compensation limit is \$150,000, as adjusted by the commissioner of Internal Revenue for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code (see 26 U.S.C. 401 et seq.). The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the Omnibus Budget Reconciliation Act of 1993 annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

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

C. If compensation for a prior determination period is taken into account in determining an employee's benefits accruing in the current plan year, the compensation for that prior determination period is subject to the Omnibus Budget Reconciliation Act of 1993 annual compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first plan year beginning on or after January 1, 1994, the Omnibus Budget Reconciliation Act of 1993 annual compensation limit is \$150,000.

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

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

§107. Transfer of Benefits

A. This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provisions of the plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to a retirement plan specified by the distributee in a direct rollover.

B. If a distribution is one to which Sections 401(a)(11) and 417 of the Internal Revenue Code (see 26 U.S.C. 401 et seq.) do not apply, such distribution may commence less than 30 days after the notice required under Section 1.411(a)-11(c) of the Federal Income Tax Regulations is given, provided that:

1. the plan administrator clearly informs the participant that the participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option); and

2. the participant, after receiving the notice, affirmatively elects a distribution.

C. The following definitions shall apply.

Direct RolloverCa payment by the plan to the eligible retirement plan specified by the distributee.

DistributeeCincludes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternative payee under a qualified

domestic relations order, as defined in Internal Revenue Code Section 414(p), are *distributees* with regard to the interest of the spouse or former spouse.

Eligible Retirement Plan Can Individual Retirement Account described in Internal Revenue Code Section 408(a), an individual retirement annuity described in Section 408(b), an annuity plan described in Internal Revenue Code Section 403(a), or a qualified trust described in Internal Revenue Code Section 401(a), that accepts the distributee's eligible rollover distributions. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an Individual Retirement Account or individual retirement annuity.

Eligible Rollover Distribution Any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

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

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

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

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

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

§109. Computation of Retirement Benefits

A. This Section is intended to comply with Internal Revenue Code Section 415. It shall cover only those who become members for the first time on or after January 1, 1990, and those qualified participants for whom the benefit is increased after October 14, 1987, to the extent of the benefit increase after October 14, 1987, including cost-of-living adjustments on any such increase.

B. The normal retirement benefit of a member of Plan A shall not exceed the amount set forth in R.S. 11:1942, the normal retirement benefit of a member of Plan B shall not exceed the amount set forth in R.S. 11:1962, and the normal retirement benefit of a member of Plan C shall not exceed the amount set forth in R.S. 11:1972.

C.1. Qualified Participant shall mean a member of the system who first became a member before January 1, 1990. In the case of the merger of, or transfer of assets and benefits of a member or members from, another plan maintained by an employer which joins this system, the accrued benefit under such predecessor plan shall be the accrued benefit referred to above, and the member shall be considered a qualified participant if his participation in such predecessor or merged plan commenced on or before January 1, 1990.

2. All employers contributing to the system on behalf of their employees, and all employers who may join the system, as a condition of such joining, shall elect, and such election is hereby implemented, to have the limitations of Internal Revenue Code Section 415(b) other than Paragraph 2G thereof applied without regard to Paragraph 2F thereof, which limitations are set forth in Subsection D. Such

limitations shall apply to all members who are not qualified participants as described herein and to qualified participants to the extent of the benefit increase after October 14, 1987, including cost-of-living adjustments on any such increase.

D. The retirement benefit of any member of the retirement system who is not a qualified participant, as defined in Paragraph C.1 and which is not attributable to the member's after-tax employee contribution, when expressed as an annual benefit may not exceed the lesser of \$90,000 per year or 100 percent of such member's average compensation for his highest three years. For purposes of determining whether a member's benefit exceeds this limitation, the following shall apply.

1. Adjustment If Benefit Not Single Life Annuity

a. If the normal form of benefit is other than a single life annuity, such form shall be adjusted actuarially to the equivalent of a single life annuity. This single life annuity shall not exceed the maximum dollar or percent limitations outlined above.

b. No adjustment is required for the following:

- i. qualified joint and survivor annuity benefits;
- ii. pre-retirement disability benefits;
- iii. pre-retirement death benefits.

2. Adjustment If Benefit Commences before Social Security Retirement Age. If benefit distribution commences before social security retirement age, the actual retirement benefit shall not exceed the lesser of 100 percent of the member's average compensation or the adjusted dollar limitation. The adjusted dollar limitation shall be the equivalent, determined in a manner consistent with reduction of benefits for early retirement under the Social Security Act, of \$90,000 commencing at social security retirement age.

3. Adjustment If Benefit Commences after Social Security Retirement Age. If benefit distribution commences after social security retirement age, the dollar limitation shall be increased to the equivalent of \$90,000 commencing at social security retirement age.

4. Social Security Retirement Age Defined. For purposes of this Subsection, the term *social security retirement age* means the age used as the retirement age under 42 U.S.C.A. §416(l) of the Social Security Act, except that such section shall be applied:

- a. without regard to the age increase factor; and
- b. as if the early retirement age under Section 416(l)(2) of such Act were 62.

5. Interest Assumption. The interest rate used for adjusting the maximum limitations above shall be:

a. for benefits commencing before social security retirement age and for forms of benefit other than straight life annuity, the greater of:

- i. five percent; or
- ii. the rate used to determine actuarial equivalence for other purposes of this retirement system;

b. for benefits commencing after social security retirement age, the lesser of:

- i. five percent; or
- ii. the rate used to determine actuarial equivalence for other purposes under this retirement system.

6. Adjustment for Less than 10 Years of Participation or Service

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

b. If retirement benefits are payable under this retirement system to a member who has less than 10 years of service with the employer, the percentage limitation referred to in the first Paragraph of this Subsection (100 percent of compensation) and the dollar limitation referred to in Paragraph 9 below (\$10,000) will be multiplied by a fraction, the numerator of which is the member's number of years of service with the employer (not greater than 10) and the denominator of which is 10.

7. Annual Adjustment. The \$90,000 limitation provided in this Subsection shall be adjusted annually to the maximum dollar limits allowable by the secretary of the Treasury of the United States under Internal Revenue Code Section 415(d), such adjustments not to take effect until the first day of the fiscal year following December 31, 1987. The adjustment shall not exceed the adjustment in effect for the calendar year in which the fiscal year of the system begins. The adjusted earlier limitation is applicable to employees who are members of the system and to members who have retired or otherwise terminated their service under the system with a nonforfeitable right to accrued benefits, regardless of whether they have actually begun to receive benefits. This system shall be considered specifically to provide for such post-retirement adjustments. For any limitation year beginning after separation from service occurs, the annual adjustment factor is a fraction, the numerator of which is the adjusted dollar limitation for the limitation year in which the compensation limitation is being adjusted and the denominator of which is the adjusted dollar limitation for the limitation year in which the member separated from service. No adjustment shall be permitted with respect to limitations applicable after October 14, 1987.

8. Member or Participant in More than One Plan. If a member is a member or participant in more than one defined benefit pension plan maintained by the state, its agencies, or its political subdivisions, then such member's benefit, considered in the aggregate after taking into account the benefits provided by all such retirement plans, shall not exceed the limits provided in this Subsection.

9. Total Annual Benefits Not in Excess of \$10,000. Notwithstanding the preceding provisions of this Subsection, the benefits payable with respect to a participant under any defined benefit plan shall be deemed not to exceed the limitations of this Subsection if:

a. the retirement benefits payable with respect to such participant under such plan and under all other defined benefit plans of the employer do not exceed \$10,000 for the plan year, or for any prior plan year; and

b. the employer has not at any time maintained a defined contribution plan in which the participant participated.

10. Average Compensation

a. For purposes of R.S. 11:1942, 1962, and 1972, average compensation shall include any amounts properly considered as the regular rate of pay of the member, as

defined in R.S. 11:231 and unreduced by amounts excluded from income for federal income tax purposes by reason of 26 U.S.C.A. 125, 414(h), or 457 or any other provision of federal law of similar effect.

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

11. Benefit Limitations at Age 62

a. Where a retirement benefit is provided at or after age 62 years, but prior to the member's social security retirement age, then the benefit as limited by the provisions of this Section shall not exceed an annual benefit of \$90,000 reduced by:

i. for a member whose social security retirement age is 65, 5/9 of 1 percent for each month by which benefits commence before the month in which the member attains age 65;

ii. for a member whose social security retirement age is greater than 65, 5/9 of 1 percent for each of the first 36 months and 5/12 of 1 percent for each of the additional months, up to 24 months, by which benefits commence before the month in which the member attains social security retirement age.

b. If the benefit begins before age 62, the benefit shall be limited to the actuarial equivalent of the member's limitation for benefits commencing at age 62 years, with the reduced dollar limitation for such benefits further reduced for each month by which benefits commence before the month in which the member attains age 62 years. In order to determine actuarial equivalence for this purpose, the interest rate assumption used by the plan may not be less than the greater of 5 percent or the rate specified in the plan for determining actuarial equivalence for early retirement. Social Security retirement age is age 65 years, if the member was born before January 1, 1938; age 66 years, if born before January 1, 1955; and age 67, if born after December 31, 1954.

12. Treasury Regulation Applicable. That portion of the benefit designated herein which is attributable to member contributions shall be determined in accordance with Treasury Regulations §1.415-3(d)(1).

E. The provisions of this Section shall apply if any member is covered, or has ever been covered, by another plan maintained by the employer, including a qualified plan, or a welfare benefit fund, as defined in Internal Revenue Code Section 419(e), or an individual medical account, as defined in Internal Revenue Code Section 415(l)(2), which provides an annual addition as described in Paragraph 5 of this Subsection.

1. If a member is, or has ever been, covered under more than one defined benefit plan maintained by the employer, the sum of the member's annual benefits from all such plans shall not exceed the maximum permissible amount set forth in Subsection D of this Section.

2. If the employer maintains or at any time maintained, one or more qualified defined contribution plans covering any member in this system, a welfare benefit fund, as defined in Internal Revenue Code Section 419(e), or an individual medical account as defined in Internal Revenue Code Section 415(1)(2), the sum of the member's defined contribution fraction and defined benefit fraction shall not exceed 1.0 in any limitation year, and the annual benefit otherwise payable to the member under this system shall be limited in order to satisfy such limitation.

3.a. *Defined Benefit Fraction* shall mean a fraction, the numerator of which is the sum of the member's projected annual benefits under all of the defined benefit plans, whether or not terminated, maintained by the employer, and the denominator of which is the lesser of 125 percent of the dollar limitation determined for the limitation year under Internal Revenue Code Sections 415(b) and (d) and in accordance with Subsection D of this Section or 140 percent of the highest average compensation, including any adjustments under Internal Revenue Code Section 415(b).

b. Notwithstanding the provisions of Subparagraph 3.a of this Paragraph, if the member was a member as of the first day of the first limitation year beginning after December 31, 1986, in one or more defined benefit plans maintained by the employer which were in existence on May 6, 1986, the denominator of this fraction shall not be less than 125 percent of the sum of the annual benefits under such plans which the member had accrued as of the close of the last limitation year beginning before January 1, 1987, disregarding any changes in the terms and conditions of the plans after May 5, 1986. The preceding sentence applies only if the defined benefit plans individually and in the aggregate satisfied the requirements of Internal Revenue Code Section 415 for all limitation years beginning before January 1, 1987.

4.a. *Defined Contribution Fraction* shall mean a fraction, the numerator of which is the sum of the annual additions to the member's account under all of the defined contribution plans, whether or not terminated, maintained by the employer for the current and all prior limitation years, including the annual additions attributable to the member's nondeductible employee contributions to this and all other defined benefit plans maintained by the employer whether or not terminated and the annual additions attributable to all welfare benefit funds, as defined in Internal Revenue Code Section 419(e) or individual medical accounts, as defined in Internal Revenue Code Section 415(1)(2) that are maintained by the employer, and the denominator of which is the sums of the maximum aggregate amounts for the current and all prior limitation years of service with the employer, regardless of whether a defined contribution plan was maintained by the employer. The maximum aggregate amount in any limitation year is the lesser of 125 percent of the dollar limitation determined under Internal Revenue Code Sections 415(b) and (d) of the Internal Revenue Code in effect under Internal Revenue Code Section 415(c)(1)(A) or 35 percent of the member's compensation for such year.

b. If a member is, or ever has been covered under more than one defined contribution plan maintained by the employer, the sum of the member's annual additions to all such plans for each limitation year shall not exceed the maximum permissible amount and shall be taken into

account for purposes of determining the defined benefit fraction.

c. If the employee was a member as of the first day of the first limitation year beginning after December 31, 1986, in one or more defined contribution plans maintained by the employer which were in existence on May 6, 1986, the numerator of this fraction shall be adjusted if the sum of this fraction and the defined benefit fraction would otherwise exceed 1.0 under the terms of this plan. Under the adjustment, an amount equal to the product of the excess of the sum of the fraction over 1.0 times the denominator of this fraction, shall be permanently subtracted from the numerator of this fraction. The adjustment is calculated using the fractions as they would be computed as of the end of the last limitation year beginning before January 1, 1987, and disregarding any changes in the terms and conditions of the plans made after May 5, 1986, but using the limitation provided in Internal Revenue Code Section 415 made applicable to the first limitation year beginning on or after January 1, 1987.

d. The annual addition for any limitation year beginning before January 1, 1987, shall not be recomputed to treat all employee contributions as annual additions.

5.a. Annual Additions of a member for the limitation year shall mean the sum of the following amounts credited to a member's account for the limitation year:

- i. employer contributions;
- ii. employee contributions;
- iii. forfeitures.

b. Amounts allocated to an individual medical account, as defined in Internal Revenue Code Section 415(1)(2), which is a part of a pension or annuity plan maintained by the employer, are treated as annual additions to a defined contribution plan. Additionally, amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, which are attributable to post-retirement medical benefits allocated to the separated account of a key employee, as defined in Internal Revenue Code Section 419A(d)(3), or under a welfare benefit fund, as defined in Internal Revenue Code Section 419(e), maintained by the employer, are treated as annual additions to a defined contribution plan.

c. Until such time as employee contributions become picked up pursuant to Internal Revenue Code Section 414(h)(2), the employee contribution shall be deemed to be a defined contribution plan, and the defined contribution plan fraction shall apply to limit contributions and benefits under this Section. If a member has made nondeductible employee contributions pursuant to the provisions of this system, the amount of such contributions shall be treated as an annual addition to a qualified defined contribution plan, for purposes of this Section.

6. The amount of annual additions which may be credited to the member's account for any limitation year shall not exceed the maximum permissible amount. Contributions and benefits under any other plan of the employer, to the extent that an adjustment is required to satisfy the requirements of this Section in the aggregate, shall be limited or reduced to the extent necessary to satisfy such requirement without reducing accrued benefits; however, only after such other plans have been modified shall the benefits and contributions under this plan be

reduced. As soon as it is administratively feasible after the end of the limitation year, the maximum permissible amount for the limitation year shall be determined on the basis of the member's actual compensation for the limitation year. If there is an excess amount, the excess shall be disposed of as follows.

a. Any nondeductible voluntary employee contribution, to the extent it would reduce the excess amount, shall be returned to the member.

b. If after the application of Subparagraph a of this Paragraph, an excess amount still exists, then any nondeductible mandatory contribution to the extent it would reduce the excess amount, shall be returned to the member.

c. If after the application of Subparagraph b of this Paragraph, an excess amount still exists, and the member is covered by the plan at the end of the limitation year, the excess amount in the member's account shall be used to reduce employer contributions, including any allocation of forfeitures, for such member in the next limitation year if necessary.

d. If after the application of Subparagraph b of this Paragraph, an excess amount still exists, and the member is not covered by the plan at the end of the limitation year, the excess amount shall be held unallocated in a suspense account. The suspense account shall be applied to reduce future employer contributions for all remaining members in the next limitation year, and each succeeding limitation year if necessary.

e. If a suspense account is in existence at any time during a limitation year pursuant to the provisions of this Section, it shall not participate in the allocation of the trust's investment gains and losses. If a suspense account is in existence at any time during a particular limitation year, all amounts in the suspense account shall be allocated and reallocated to members' accounts before any employer or any employee contributions may be made to the plan for that limitation year. Excess amounts shall not be distributed to members or former members.

7. *Excess Amount* of a member for a limitation year shall mean the excess of the member's annual additions for the limitation year over the maximum permissible amount.

8. The *Limitation Year* shall be the calendar year, or the 12 consecutive month period elected by the employer hereunder.

9.a. The Maximum Permissible Amount for a member for a limitation year shall be the maximum annual addition that may be contributed or allocated to a member's account under the plan for any limitation year and shall not exceed the lesser of:

- i. the defined contribution dollar limitation;
- ii. 25 percent of the member's compensation for the limitation year.

b. The compensation limitation provided for in Clause 9.a.ii. of Subparagraph a of this Paragraph, shall not apply to any contribution for medical benefits, within the meaning of Internal Revenue Code Sections 401(h) or 419A(f)(2), which is otherwise treated as an annual addition pursuant to Internal Revenue Code Sections 415(l) or 419A(d)(2).

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

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

Family Impact Statement

The proposed adoption of LAC 58:XI.101-105, regarding Internal Revenue Code provisions applicable to the Parochial Employees= Retirement System, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

- 1. the stability of the family;
- 2. the authority and rights of parents regarding the education and supervision of their children;
- 3. the functioning of the family;
- 4. family earnings and family budget;
- 5. the behavior and personal responsibility of children; or
- 6. the ability of the family or a local government to perform the function as contained in the proposed Rules.

Any interested person may submit written data, views, arguments or comments regarding these proposed rules to Dainna S. Tully, Assistant Director, Parochial Employees= Retirement System by mail to P.O. Box 14619, Baton Rouge, LA 70898-4619. All comments must be received no later than 4:30 p.m., September 10, 2003.

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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Internal Revenue Code Provisions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no net estimated implementation costs or savings to state or local governmental units. R.S. 11:1931 requires that provisions relating to the tax-qualification status of the Parochial Employees' Retirement System be contained in rules and regulations. Previously, these rules were contained in repealed R.S. 11:1930, 1930.1, 1930.2, 1930.3 and amended and reenacted R.S. 11:1931, all of which are now adopted in these Rules and Regulations without any change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition or employment.

Dainna S. Tully
Assistant Director
0310#025

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury Teachers' Retirement System

Management of DROP Accounts (LAC 58:III.503)

In accordance with R.S. 49:950 et seq., the Administrative Procedures Act, notice is hereby given that the Board of Trustees of Teachers' Retirement System of Louisiana approved an amendment to policies governing the Management of DROP Accounts, LAC 58:III.503 as follows.

Title 58 RETIREMENT

Part III. Teachers' Retirement System of Louisiana Chapter 5. Deferred Retirement Option Plan (DROP)

§503. Management of DROP Accounts

A. - B.2. ...

3. interest earnings will begin accruing the day after termination of DROP participation and will be compounded daily;

a. members eligible to enter DROP prior to January 1, 2004, will have interest deposited to their DROP accounts once a year when the actuarially realized rate of return is approved by the Public Retirement System's Actuarial Committee. This interest will be equal to the approved actuarially realized rate of return less an administrative fee. Interest deposits will reflect the interest earned on the account during the previous fiscal year and will be entered on quarterly statements issued after this approval is obtained. No interest will accrue on the DROP account after the date the account has been liquidated. No interest is paid on any interest only balance. *Liquidated* means all funds have been withdrawn from the DROP account except for the possible final interest earnings due but not yet posted;

b. members eligible to enter DROP on or after January 1, 2004, will have their DROP funds transferred to a Liquid Asset Money Market Account after the termination of DROP participation. Interest will be deposited monthly based on the interest earned on the Liquid Asset Money Market Account less an administrative fee. Final payouts of DROP accounts will have interest posted through the date of

the payment. Quarterly statements issued will reflect the interest earned and posted;

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), repromulgated LR 24:500 (March 1998), amended LR 25:1655 (September 1999), LR 30:

Interested persons may comment on the proposed Rule in writing until 4:30 p.m., November 3, 2003, to Bonita B. Brown, Director, CPA, Teachers' Retirement System of Louisiana, P. O. Box 94123, Baton Rouge, LA 70804-9123.

Bonita B. Brown, CPA
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Management of DROP Accounts

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that this Rule will cost TRSL approximately \$258,000 over the first few years of implementation, but will ultimately save TRSL money in the future. Interest rates on DROP/ILSB accounts will be controlled by liquid asset money market accounts, after January 1, 2004. Actuarial rates of return will no longer be used to compute interest accruals.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collection of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

TRSL members who join DROP, or who establish ILSB accounts may receive interest credit to their accounts sooner than they would have without the provision of Act 962. The interest to be accrued will be based upon interest paid by liquid asset money market accounts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Bonita B. Brown, CPA
Director
0310#024

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Governor's Report

GOVERNOR'S REPORT

Governor's Letter to House Commerce Committee Chairman

Calcasieu River Waterway/River Port Pilots
(LAC 46:LXXVI.Chapter 6)

Editor's Note: This letter was originally promulgated in the May 2002 edition of the Louisiana Register on page 1544 and is being repromulgated for corrective purposes. A portion of this letter was not printed in the May 2002 edition.

The Honorable Gil Pinac
Chairman, House Commerce Committee
State Capitol
Baton Rouge, LA 70802

Dear Chairman Pinac:

As you know, but non-legislators may not, under the Louisiana Administrative Procedure Act (LAPA) Section 968 (R.S. 49:968) the appropriate legislative oversight subcommittee has the authority to find a rule proposed by a state agency (or board, commission, etc.) "unacceptable". If the subcommittee does so, it is required to deliver a report to the governor no later than four days thereafter including therein a summary of the determinations made by the subcommittee. The governor has ten days after receipt of the report to disapprove the action of the subcommittee or allow the action to stand. If the governor disapproves such action, the agency can complete the rule-making process as proposed; otherwise, the unacceptable provision cannot be adopted by the agency at that time.

On May 10, 2002, I received from you a report of the Subcommittee on Oversight of the House Commerce Committee concerning its meeting on May 7, 2002, to review certain rules governing river port pilots and navigation proposed by the Board of River Port Pilot Commissioners and Examiners for the Calcasieu River Waterway (the Board). A copy of that report is attached and reflects that eight provisions of the rules [603(L), 607, 609, 613(A), 613(E), 617(D), 619(G), and 621(B)] were found unacceptable because of potential liability to the state and possible undue burden for river port pilots. The subcommittee subsequently voted to approve the remainder of the proposed rules. Thus, under the LAPA legislative oversight process, the only provisions of the proposed rules before me are the eight above listed rejected provisions.

The underlying authority for these rules is R.S. 34:1072 which provides in part that "the board [of River Port Pilot Commissioners and Examiners for the Calcasieu River Waterway] shall make whatever rules and regulations they may deem necessary for the purpose of regulating pilots, pilot associations, masters and owners of vessels plying the navigable waters of the state of Louisiana within its jurisdiction." On its face, Section 1072 is a broad legislative grant of authority to the Board.

After careful review, I have decided to allow the subcommittee's decision to reject Sections 609 (oral/written exams) and 613(A) (multiple pilot associations) to stand - the former because of its vagueness and lack of guidance and standards, and the latter because it is in direct conflict with R.S. 34:1075, which expressly states that there can be only one association for the Calcasieu River Waterway.

Furthermore, after careful deliberation and consultation, I have decided to exercise my right under the LAPA to disapprove the action of the subcommittee as to the other six provisions. During the joint meeting of the Senate and House oversight subcommittees there were many excellent concerns expressed and the House subcommittee vote appeared to be one of caution due to some degree of confusion and a lack of time to dispel doubt.

Having had the luxury of some time for review, I have concluded that all expressed concerns regarding these provisions can be properly addressed by either the Louisiana Public Service Commission through the exercise of its rate-setting authority consistent with recent rulings by the Louisiana Supreme Court or by the reasonable administration of the rules by the Board itself. However, I do share the subcommittee's concern that because various provisions of the rules (e.g. Sections 619 and 621) do grant the Board and district some degree of control over navigation within the waterway, this may create a path to some limited liability of those entities. This issue should be revisited by the Board without delay.

Indeed, I note that the officers of the Board in their letter to me on May 8, 2002, repeatedly committed to revise various sections to address all expressed concerns. I strongly encourage the Board do so without delay.

I wish to thank you and your members for all efforts to help address these important issues. Should you wish to discuss these matters, please let me know.

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

0310#030

Administrative Code Update

CUMULATIVE: JANUARY – SEPTEMBER 2003

LAC Title	Part.Section	Effect	Location LR 29 Month Page	LAC Title	Part.Section	Effect	Location LR 29 Month Page
4	I.303	Amended	Mar. 372	32	III.301, 701	Amended	Mar. 343
	XVII.Chapters 1-9, 13-15	Adopted	June 951		III.323, 701	Amended	Mar. 341
7	XV.321	Amended	June 859	III.417	Amended	Sept. 1819	
	XXI.121	Amended	Aug. 1460	III.701	Repromulgated	Apr. 577	
	XXV.117, 141	Amended	July 1062	V.101	Amended	Mar. 336	
	XXIX.107, 119	Amended	Aug. 1460	V.101	Amended	Mar. 338	
10	XV.303	Amended	Mar. 343	V.301, 601, 701, 703	Amended	Mar. 334	
				V.301, 701	Amended	Mar. 338	
13	III.101-117	Amended	June 860	V.325, 701	Amended	Mar. 337	
	III.119-123	Adopted	June 860	V.417	Amended	Sept. 1818	
	III.Chapter 3	Amended	July 1064	V.10303	Amended	May 711	
	III.321	Adopted	July 1064	IX.Chapters 1-7	Adopted	June 883	
19	II.Chapters 1-13	Amended	Apr. 542	33	I,III,V,VII,IX,XI,XV	Amended	May 670
	VII.7303,7305	Amended	June 859		I.2303-2309	Amended	May 701
	VII.Chapter 79	Adopted	July 1068		I.3931	Amended	May 697
22	I.314	Adopted	Mar. 360		I.Chapter 41	Adopted	May 696
	I.509	Amended	Sept. 1820		I.4501, 4719	Amended	Mar. 311
	XIII.503	Amended	Apr. 577		III.507,2160,3003,5116,5122	Amended	May 697
28	I.901	Amended	Jan. 33		III.1432	Amended	May 697
	I.901	Amended	Feb. 117		III.2132	Amended	Apr. 557
	I.901	Amended	Mar. 286		III.3003	Amended	Mar. 316
	I.901	Amended	Mar. 287		III.5122	Amended	Aug. 1474
	I.901	Amended	Mar. 287		III.5311,5901	Amended	May 697
	I.901	Amended	Mar. 299		V.105, 109, 321, 529, 535, 537	Amended	Mar. 317
	I.901	Amended	Apr. 552		V.2001, 2219	Adopted	Mar. 317
	I.901	Amended	May 670		V.2603, 3001, 3105	Amended	Mar. 317
	I.901	Amended	Apr. 552		V.Chapter 30	Amended	May 697
	I.901	Amended	June 865	V.3115, 4513, 4901, 4903	Amended	Mar. 317	
	I.901	Amended	July 1070	V.Chapter 49	Amended	July 1084	
	I.901	Amended	Sept. 1802	V.Chapter 49	Repromulgated	Aug. 1474	
	I.901	Amended	Sept. 1812	VII.10519	Amended	Sept. 1818	
	I.903	Amended	Feb. 117	VII.Chapters 151-169	Repealed	Mar. 312	
	I.903	Amended	Feb. 119	IX.1105,1109	Amended	Apr. 556	
	I.903	Amended	Feb. 121	IX.1123	Amended	Sept. 1814	
	I.903	Amended	July 1073	IX.1123	Amended	Sept. 1817	
	I.903	Amended	July 1074	IX.2301,2531,2533	Amended	May 697	
	I.903	Amended	July 1077	IX.2331, 2335, 2345, 2357, 2533	Amended	Aug. 1462	
	I.903	Amended	July 1077	IX.2341	Amended	May 701	
	I.903	Amended	July 1079	XI.101	Amended	Aug. 1467	
	IV.301	Amended	Apr. 555	XV.212, 320	Amended	Sept. 1815	
	IV.301,701,805,1703,1705	Amended	June 879	XV.430, 440, 441, 442	Amended	Aug. 1468	
	IV.501, 503, 803	Amended	Apr. 554	XV.503, 573, 575, 577, 578, 579	Amended	Jan. 33	
	IV.703, 1103, 1705, 2103	Amended	Feb. 125	XV.543, 544, 575, 577	Amended	Aug. 1468	
	VI.107	Amended	Apr. 556	XV.545, 590	Amended	Sept. 1815	
	XXXIII.305, 311, 503, 507, 701	Amended	Feb. 124	XV.590	Amended	Jan. 33	
	XXXVII.503,701,901	Amended	Apr. 553	XV.1517	Amended	May 697	
	XXXIX.503, 505, 1301	Amended	Feb. 123	XV.1739, 1755	Amended	Aug. 1468	
	XXXIX.1301	Amended	Aug. 1461	XV.Chapter 20	Amended	Aug. 1468	
	XLIII.105,130,201,240,302,369	Amended	June 867	XV.2036	Adopted	Aug. 1468	
	XLIII.260,509-511	Repealed	June 867	XV.2504, 2506	Amended	Sept. 1815	
	XLIII.401,405,411,413,415,416	Amended	June 867	35	III.5737	Adopted	Jan. 36
	XLIII.410, 861-870	Adopted	June 867	III.5738	Repromulgated	Jan. 36	
	XLIII.417,418,431,433,434	Amended	June 867	37	III.109, 111, 303, 507, 509, 511	Amended	Mar. 344
	XLIII.436,437,438,440,441	Amended	June 867		III.515, 517, 701, 705, 711	Amended	Mar. 344
	XLIII.444-451,460,462,491,494	Adopted	June 867		III.517	Repromulgated	Apr. 579
	XLIII.503-508,512-519	Amended	June 867		III.519	Repealed	Mar. 344
	XLIII.602,690,711,716,830,904	Amended	June 867		III.715, 901, 1101	Amended	Mar. 344
	XLIII.1001	Amended	June 867		III.1401, 1403, 1405	Adopted	Mar. 344
	LXI.Chapters 1-5	Adopted	July 1080		III.1501, 1503, 1505, 1507	Amended	Mar. 344
	LXIII.Chapters 1-7	Adopted	Mar. 306		XI.901	Amended	Jan. 41
LXIII.1001	Repromulgated	Aug. 1461	XI.2501		Adopted	Jan. 41	
32	III.101	Amended	Mar. 340		42	VII.1701, 2101, 2325	Amended
	III.101	Amended	Mar. 342	IX.2101, 4103		Amended	Mar. 362
	III.301, 321, 601, 701, 703	Amended	Mar. 339	XI.2405		Amended	Mar. 362
			XIII.1701, 2101, 2325, 3305	Amended		Mar. 362	
				43	XIII.125	Amended	July 1106

LAC Title	Part.Section	Effect	Location LR 29 Month Page	LAC Title	Part.Section	Effect	Location LR 29 Month Page		
43	XV.105, 1105-1107, 2111, 2113	Amended	June 939	51	XVI.101, 1101, 1303	Repromulgated	July 1098		
	XV.105, 1105-1109, 2111, 2113	Amended	Aug. 1492		XVII.105, 107, 501	Repromulgated	July 1098		
	XV.1109, 5424, 5425	Adopted	June 939		XVIII.301	Repromulgated	July 1098		
	XV.2311, 2323, 2731, 2733, 3103	Amended	June 939		XIX.103	Repromulgated	July 1098		
	XV.2311, 2323, 2731, 2733, 3103	Amended	Aug. 1492		XX.105	Repromulgated	July 1098		
	XV.3115, 3705, 5423	Amended	June 939		XXIV.103, 317, 319	Repromulgated	July 1098		
	XV.3115, 3705, 5423	Amended	Aug. 1492		XXVI.103	Repromulgated	July 1098		
	XV.5424, 5425	Adopted	Aug. 1492		55	III.187	Amended	Apr. 604	
	XVII.Chapter 31	Adopted	June 914			III.325,327,383	Amended	Apr. 605	
	XIX.Chapter 5	Amended	June 914			V.103	Repromulgated	Feb. 183	
	XIX.703	Amended	Mar. 350			58	I.2713, 3503, 3505, 3519	Amended	July 1121
	46	I.101,103,301,309,311,	Repromulgated		Apr 558		I.3701-3705	Adopted	July 1121
		I.303,305,307,313,315,317	Amended		Apr 558		61	I.305	Amended
I.Chapters 5-23		Adopted	Apr. 558	I.1306	Adopted			Jan. 42	
V.3005		Adopted	May 703	I.1310	Adopted			Aug. 1502	
XIX.505, 701, 703		Amended	Aug. 1475	I.2903	Amended			June 951	
XXI.301, 309		Amended	July 1086	I.4301	Amended			Feb. 186	
XXXI.Chapters 1-17		Adopted	Mar. 325	I.4401	Amended			Aug. 1520	
XXXVIII.Chapters 1-7		Adopted	Sept. 1821	I.4420	Adopted			Feb. 188	
XXI.531		Amended	Sept. 1820	III.301-335	Adopted			Mar. 363	
XLV.1301-1305, 1361-1363		Adopted	July 1088	III.2101	Amended			June 950	
XLV.1371-1385, 1391-1397		Adopted	July 1088	V.303, 703, 907, 1503	Amended			Mar. 367	
XLVII.303		Amended	Feb. 127	V.2503, 2705, 2707	Amended			Mar. 367	
XLVII.3308		Adopted	Apr. 581	67	III.1235	Amended		Jan. 44	
XLVII.4507	Amended	Apr. 580	III.1917,1932,1949,1953,1961		Amended	Apr. 605			
LX.Chapters 1-47	Adopted	Feb. 128	III.1965,1966,1980,1983,2013		Amended	Apr. 605			
LX.3503	Repromulgated	Apr. 581	III.2516		Amended	July 1107			
LXIII.1301	Amended	May 703	III.Chapters 35, 37		Repealed	May 714			
LXIII.1303-1319	Repealed	May 703	III.5102, 5103, 5107		Amended	Jan. 42			
LXIII.1703	Repealed	July 1088	III.5102, 5107		Amended	Feb. 189			
LXVI.705, 1109	Amended	Feb. 182	III.5103		Amended	July 1106			
LXVII.2501	Amended	Feb. 127	III.5103, 5109		Amended	Sept. 1833			
LXVII.3703, 3705	Amended	Mar. 349	III.5501,5505,5513		Amended	May 715			
LXVII.3703, 3705	Repromulgated	Apr. 579	III.5503,5515,5517,5519		Repealed	May 715			
LXVII.3905	Amended	July 1087	III.5507		Amended	Jan. 44			
LXVII.10311, 10313	Amended	Feb. 126	III.5521		Amended	Mar. 373			
LXXVI.Chapters 11-16	Adopted	Mar. 350	III.5533	Amended	Feb. 190				
LXXXV.405, 503, 1201	Amended	Aug. 1478	III.5555	Adopted	Jan. 44				
LXXXV.714	Adopted	Aug. 1478	III.5559	Adopted	Jan. 44				
XCI.103, 301, 303, 309, 311, 313	Amended	Aug. 1479	III.5561-5571	Adopted	Feb. 190				
XCI.503	Amended	Aug. 1479	V.501,515	Amended	May 712				
48	I.Chapter 27	Adopted	July 1092	V.503-513	Adopted	May 712			
	I.Chapter 44	Adopted	May 705	VII.Chapter 1	Amended	Jan. 46			
	I.Chapter 44	Repromulgated	June 902	70	I.101, 103	Amended	Feb. 192		
	I.Chapter 53	Amended	July 1107		I.317	Amended	Jan. 48		
	V.6303	Amended	Aug. 1490		XXIII.Chapter 3	Amended	Apr. 607		
50	I.Chapter 29	Adopted	June 908		71	I.Chapter 5	Repromulgated	Feb 192	
	I.Chapter 41	Repromulgated	Apr. 583			III.Chapters 21-23	Repromulgated	Feb. 192	
	II.10155	Amended	June 911	VII.Chapter 1		Repromulgated	Feb. 192		
	II.10167	Amended	Jan. 40	76	V.107	Amended	Feb. 196		
	XV.Chapters 65-87	Adopted	Feb. 175		V.125	Repromulgated	Jan. 51		
	XV.Chapter 77	Adopted	Jan. 39		VII.149	Amended	Mar. 373		
	XV.Chapter 129	Adopted	June 911		VII.500	Repealed	Mar. 373		
	XV.Chapter 141	Adopted	Aug. 1487		VII.505	Amended	Mar. 373		
	XVII.Chapter 11	Adopted	Aug. 1481		VII.701	Amended	Jan. 48		
	XIX.4313	Amended	Aug. 1485		XI.301	Adopted	Sept. 1835		
	XIX.4333	Amended	July 1096		XIX.101, 103	Amended	July 1122		
	XXI.Chapter 1	Amended	Sept. 1829		XIX.103	Repromulgated	Aug. 1521		
	XXI.11523	Repromulgated	Jan. 38		XIX.111	Amended	July 1124		
XXI.11703	Amended	May 704	XIX.111		Repromulgated	Aug. 1522			
51	III.101, 113	Repromulgated	July 1098						
	IX.303, 333	Repromulgated	Feb. 173						
	XV.117	Repromulgated	July 1098						

Potpourri

POTPOURRI

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Structural Pest Control Commission

Approved Termiticides and Manufacturers

The Louisiana Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences is hereby giving notice of the list of termiticides and manufacturers, approved by the Structural Pest Control Commission, for use in Louisiana.

<u>Product</u>	<u>Percentage</u>	<u>Manufacturer</u>
Biflex TC (Bifenthrin)	0.06% - 0.12%	FMC
*Chlorpyrifos TC (Chlorpyrifos)	0.75% - 2.00%	Micro-Flo
Cyper TC (Cypermethrin)	0.25% - 1.00%	Control Solutions
*Cyren TC (Chlorpyrifos)	0.75% - 2.00%	Cheminova
Demon (Cypermethrin)	0.25% - 1.00%	Zeneca
Dragnet FT (Permethrin)	0.50% - 2.00%	FMC
Dragnet SFR (Permethrin)	0.50% - 2.00%	FMC
*Dursban 75WG (Chlorpyrifos)	0.75% - 2.00%	Dow AgroSciences
*Dursban TC (Chlorpyrifos)	0.75% - 2.00%	Dow AgroSciences
*Equity (Chlorpyrifos)	0.75% - 2.00%	Dow AgroSciences
Impasse Termite System (Lambda-cyhalothrin)		Syngenta
Impasse Termite Blocker (Lambda-cyhalothrin)		Syngenta
*Navigator 4TC (Chlorpyrifos)	0.75% - 2.00%	Gharda USA, Inc.
Permater 380 (Permethrin)	0.50% - 2.00%	LGChemicalAmerica Inc.
Permethrin SFR (Permethrin)	0.50% - 2.00%	Control Solutions
Permethrin TC (Permethrin)	0.50% - 2.00%	Micro-Flo
Phantom (Chlorfenapyr)	0.063% - 0.25%	BASF
Prelude (Torpedo)(Permethrin)	0.50% - 2.00%	Zeneca
Premise 75 (Imidacloprid)	0.05% - 0.10%	Bayer
Premise .05SC (Imidacloprid)	0.05% - 0.10%	Bayer
Premise II (Imidacloprid)	0.05% - 0.10%	Bayer
Premise Pre-construction (Imidacloprid)	0.05% - 0.10%	Bayer
**Premise Gel (Imidacloprid)	0.001%	Bayer
Prevail (Cypermethrin)	0.25% - 1.00%	FMC
Prevail TC (Cypermethrin)	0.30% - 0.60%	FMC
Prevail FT (Cypermethrin)	0.25% - 1.00%	FMC
Prevail Pretreat (Cypermethrin)	0.25% - 1.00%	FMC
***Pryfon 6	0.75%	Bayer
*Surrender (Chlorpyrifos)	0.75% - 2.00%	Solutions
Talstar (Bifenthrin)	0.06% - 0.12%	FMC
Tengard SFR (Permethrin)	0.50% - 2.00%	United Phosphorus
*Tenure (Chlorpyrifos)	0.75% - 2.00%	Dow AgroSciences
Termidor (Fipronil)	0.06% - 0.125%	BASF

Termidor 80WG (Fipronil)	0.06% - 0.125%	BASF
Tribute (Benzeneacetate)	0.50% - 1.00%	AgrEvo

NOTES:

*Manufacture of all Chlorpyrifos products with approved label rates was discontinued as of December 31, 2001.

**Premise Gel is approved for targeted (spot) application only.

***Use of Pryfon limited to supplies on hand, but its use is being phased out.

BAITS (not in Pilot Program)

Recruit II (Hexaflumuron)	Dow AgroSciences
Recruit AG (Hexaflumuron)	Dow AgroSciences
FirstLine GTX Termite Bait Station (Sulflurimid)	FMC
FirstLine GT Termite Bait Station (Sulflurimid)	FMC
FirstLine Termite Bait Station (Sulflurimid)	FMC
FirstLine GT Plus (Sulflurimid)	FMC
Labyrinth (Diflubenzuron)	Ensystem
Labyrinth AC (Diflubenzuron)	Ensystem

BAITS (in Pilot Program)

Subterfuge (Cyanamid)(Hydramethylnon)		
	2/13/2002	BASF
Outpost TBR (Diflubenzuron)	2/13/2002	Bayer
TC223 Termite Bait (Diflubenzuron)		
	10/2/2002	Whitmire Micro-Gen
Recruit III (Noviflumuron)	7/2/2003	Dow AgroSciences
Recruit III AG (Noviflumuron)	7/2/2003	Dow AgroSciences
		Bob Odom Commissioner

0310#061

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Solicitation of Comments on Triennial Visibility Protection Report

The Louisiana Department of Environmental Quality (LDEQ), Office of Environmental Assessment, Environmental Planning Division, has completed the triennial review of the State Implementation Plan (SIP) for Visibility Protection of the Breton Wilderness Area, a chain of barrier islands approximately 30 miles off the southeast coast of Louisiana. The Wilderness Area is classified as a Class I Federal Area and is afforded visibility protection under the Clean Air Act, Part C, Section 169, and 40 CFR Part 51.

The information used in the review included: air emission inventories of sources within 100 km distance of the Class I area from both Louisiana and Mississippi; Prevention of Significant Deterioration permit reviews that require an

analysis of the impact of Class I areas from proposed projects; and consultation with the Federal Land Manager (FLM), U.S. Department of Fish and Wildlife Service, requesting attributable source certifications. Further consultation with the FLM on the proposed draft report is in progress. The results of the consultation will be included in the final report.

Based on the triennial review, the department has determined that the SIP is adequate for preventing impairment of visibility as required by applicable 40 CFR Part 51 requirements. At this time, no additional measures beyond the current program are necessary.

The proposed draft report, "Louisiana's Progress Toward Visibility Protection of the Breton Wilderness Area," is available for public review at the LDEQ Headquarters, Public Records Room, Room 127, 602 N. Fifth St., Baton Rouge, LA; and at the LDEQ Southeast Regional Office, 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA. The final report will be submitted to EPA on December 19, 2003, and will then be available for public review at the same locations listed above.

Written comments are due no later than 4:30 p.m. CST on Wednesday, November 26, 2003, and should be submitted to

Ms. Vivian H. Aucoin, Office of Environmental Assessment, Environmental Planning Division, P. O. Box 4314, Baton Rouge, LA 70821-4314 or hand-delivered to LDEQ Headquarters, 602 N. Fifth St., Sixth Floor, Baton Rouge, LA or faxed to (225) 219-3582. Questions regarding this announcement may be directed to Ms. Aucoin by telephone at (225) 219-3575.

James H. Brent, Ph.D.
Assistant Secretary

0310#053

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
S.S.M. Partnership	Olla Field	M	Cockerham Heirs	2	155691
Swinging M. Ranch & Oil	Caddo Pine Island	S	North	3	050931
Swinging M. Ranch & Oil	Caddo Pine Island	S	North	1	050932
Swinging M. Ranch & Oil	Caddo Pine Island	S	North	2	050933
Swinging M. Ranch & Oil	Caddo Pine Island	S	North	4	050934
Swinging M. Ranch & Oil	Caddo Pine Island	S	North	5	052657
Swinging M. Ranch & Oil	Caddo Pine Island	S	North	6	052729
Swinging M. Ranch & Oil	Caddo Pine Island	S	North	7	052988
Swinging M. Ranch & Oil	Caddo Pine Island	S	North	8	052989
Swinging M. Ranch & Oil	Caddo Pine Island	S	North	9	099511
Swinging M. Ranch & Oil	Caddo Pine Island	S	North	18	112854
S.J.S. Operations L.L.C.	North Missionary Lake	S	CV RA SU144;Day <i>et al.</i>	001	180499
S.J.S. Operations L.L.C.	Caddo Pine Island	S	VUA; Little	001	184773
S.J.S. Operations L.L.C.	Caddo Pine Island	S	VUA; Little	002	185599
S.J.S. Operations L.L.C.	Caddo Pine Island	S	Arthur Brooks SWD	001	185884
S.J.S. Operations L.L.C.	Caddo Pine Island	S	Arthur Brooks	002	186394
S.J.S. Operations L.L.C.	Caddo Pine Island	S	Arthur Brooks	003	186946
S.J.S. Operations L.L.C.	Caddo Pine Island	S	Arthur Brooks	004	187377
Tiger Petroleum	Section 28	L	St. Martin Land Company Fee	6	177573 (30)
Tiger Petroleum	Section 28	L	St. Martin Land Company Fee SWD	1	163773 (30)
John W. Mecom <i>et al.</i>	Venice	L	Louisiana Fruit Co.	3	054510
J & D Oil Co.	Caddo Pine Island	S	Tolbert	001	149868
J & D Oil Co.	Caddo Pine Island	S	Tolbert	002	152788
Tremont Lumber Company	Tullos Urania	M	Tremont LBR Co.	A006	990702
L.D.C. Operating, Inc.	Thornwell, South	L	G.A. Lyon	001	213688
L.D.C. Operating, Inc.	Thornwell, South	L	G.A. Lyon	001-D	215064
L.D.C. Operating, Inc.	Thornwell, South	L	G.A. Lyon	002	225463

James H. Welsh
Commissioner

0310#055

POTPOURRI

**Department of Natural Resources
Office of Conservation
Pipeline Division**

Extension of Time for Public Comment on New Pipeline Safety Hazardous Liquids Regulations.

Under the authority of Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner of Conservation gives notice that the Office of Conservation will conduct a public hearing to receive comments regarding proposed amendments to the Pipeline Safety Hazardous Liquids regulations.

The public hearing for these proposed amendments to the pipeline safety regulations will be held at 9 a.m. on October 27, 2003, in the LaSalle Building Hearing Room, first floor, 617 North Third Street, Baton Rouge, LA 70802. Should individuals with a disability need an accommodation in order to participate, contact Mariano Hinojosa, Pipeline Division, P.O. Box 94275, Baton Rouge, LA 70804-9275 or (225) 342-5505. Interested persons are invited to attend and submit oral comments on the proposed amendments.

Written comments should be mailed to James H. Welsh, Commissioner of Conservation, Louisiana Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275. Comments must be received no later than 4:30 p.m., November 14, 2003.

A copy of the proposed amendment may be viewed from 8 a.m. to 4:30 p.m., Monday through Friday, at the Pipeline Division offices, 11th Floor, LaSalle Building, 617 North Third Street, Baton Rouge, LA.

James H. Welsh
Commissioner of Conservation

0310#035

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 31 claims in the amount of \$102,870.06 were received for payment during the period July 1, 2003 - September 30, 2003. There were 31 claims paid and 0 claims denied.

Loran Coordinates of reported underwater obstructions are:

2916	8956	Jefferson
27923	46857	Terrebonne

Latitude/Longitude Coordinates of reported underwater obstructions are:

2788.100	8926.874	St Bernard
2903.574	9015.514	Lafourche
2904.140	9048.251	Terrebonne

2905.060	9058.322	Terrebonne
2907.362	9056.553	Terrebonne
2907.442	9034.388	Terrebonne
2908.230	8858.620	Plaquemines
2911.720	9106.050	St Charles
2912.693	9033.559	Terrebonne
2912.916	9056.963	Terrebonne
2914.031	8955.000	Jefferson
2915.500	9120.360	Terrebonne
2926.894	8958.448	Jefferson
2927.375	8941.521	Plaquemines
2927.548	9003.335	Lafourche
2935.220	8932.324	St Bernard
2938.122	8924.284	St Bernard
2939.037	9002.592	Jefferson
2942.561	8953.088	Plaquemines
2944.222	8925.624	St Bernard
2944.929	9314.894	Cameron
2946.000	9323.930	Cameron
2951.760	8916.340	St Bernard
2955.240	8920.321	St Bernard
2957.513	8928.155	St Bernard
3003.149	8914.269	St Bernard
3003.780	9002.470	Lafourche
3008.962	9005.763	Orleans
8925.750	2918.138	Plaquemines

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

0310#054

POTPOURRI

**Department of Transportation and Development
Sabine River Compact Administration**

Fall Meeting Notice

The fall meeting of the Sabine River Compact Administration will be held at the Hyatt Regency Hill Country Resort, San Antonio, Texas, Friday, October 31, 2003 at 8 a.m.

The purpose of the meeting will be to conduct business as programmed in Article IV of the bylaws of the Sabine River Compact Administration.

The spring meeting will be held at a site in Louisiana to be designated at the above described meeting.

Contact person concerning this meeting is:

Kellie Ferguson, Secretary
Sabine River Compact Administration
15091 Texas Highway
Many, LA 71449
(318) 256-4112

Kellie Ferguson
Secretary

0310#022

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