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This public document was published at a total cost of \$5,657.00. Eight hundred fifty (850) copies of this public document were published in this monthly printing at a cost of \$3,675.00. The total cost of all printings of this document including reprints is \$5,676.00. This document was published by Moran Printing, Inc. 5425 Florida Boulevard, Baton Rouge, LA 70806, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 981-999. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:30. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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Executive Orders

EXECUTIVE ORDER MJF 99-34

Bond Allocation—Louisiana Local Government
Environmental Facilities and
Community Development Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1999 (hereafter "the 1999 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 1999 Ceiling; and

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

WHEREAS, the Louisiana Local Government Environmental Facilities and Community Authority has requested an allocation from the 1999 Ceiling to be used to finance the acquisition, construction, and equipping of an oil field production chemical manufacturing facility (the "project") located in the parish of St. Charles, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1999 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$2,500,000	Louisiana Local Government Environmental Facilities and Community Development Authority	X-CHEM, Inc.

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1999, provided that such bonds are delivered to the initial purchasers thereof on or before October 21, 1999.

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

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 23rd day July, 1999.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9908#067

EXECUTIVE ORDER MJF 99-35

Bond Allocation—Caddo-Bossier Parishes
Port Commission

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 was issued on August 27, 1996 to establish

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1999 (hereafter "the 1999 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 1999 Ceiling; and

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

WHEREAS, the Caddo-Bossier Parishes Port Commission has requested an allocation from the 1999 Ceiling to be used to finance the acquisition and renovation of approximately 65,000 sq. ft. of buildings for office space to be used by the Port Commission and office space and industrial space to be used by Omni Industries, Inc. to manufacture blended petroleum products located at 10397 Highway 1, Shreveport, parish of Caddo, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1999 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$1,300,000	Caddo-Bossier Parishes Port Commission	Omni Industries, Inc.

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1999, provided that such bonds are delivered to the initial purchasers thereof on or before October 25, 1999.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 27th day July, 1999.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9908#068

EXECUTIVE ORDER MJF 99-36

Louisiana Commemorative Coin Advisory Commission

WHEREAS, on December 1, 1997, President Clinton signed the Fifty States Commemorative Coin Program Act (Public Law 105-124), creating a ten (10) year circulating commemorative coin program to honor the unique Federal republic of states that comprise the United States (hereafter "the program");

WHEREAS, under the program, five (5) states are to be featured each year during a ten (10) year period, with each of the fifty (50) states being honored in the order of their ratification of the Constitution of the United States or admittance into the Union;

WHEREAS, because a goal of the program is to promote a diffusion of knowledge among the youth of the

United States about the individual states, such as knowledge about the history, geography, or natural heritage of a state, the program provides for the reverse side of quarter dollars issued during the ten (10) year period of 1999 to 2008 to be redesigned with designs emblematic of each of the fifty (50) states, with Washington's portrait remaining on the obverse side of the quarter dollars;

WHEREAS, the five (5) states to be honored with the issuance of commemorative quarters depicting themes emblematic of their state in the year 2002 are the states of Tennessee, Ohio, Louisiana, Indiana, and Mississippi;

WHEREAS, the governor may submit to the United States Mint for review between three (3) and five (5) designs, design concepts, and/or themes which are emblematic of the state of Louisiana; and

WHEREAS, the interests of the citizens of the state of Louisiana will be best served by the creation of a citizens advisory commission that is charged with the duty of identifying initial designs, design concepts, and/or themes for Louisiana's commemorative coin that are not only emblematic of the state of Louisiana but are also educational and enduring symbols which will appeal to a broad spectrum of citizens of this state;

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

SECTION 1: The Louisiana Commemorative Coin Advisory Commission (hereafter "Commission") is established within the executive department, Office of the Governor.

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

A. Identifying a minimum of three (3) designs, design concepts, and/or themes emblematic of the state of Louisiana that are appropriate for coinability, have broad appeal to the citizens of Louisiana, are informative about the state of Louisiana, and are considered enduring representations or symbols of the state of Louisiana;

B. Preparing and/or obtaining supporting documentation that is necessary and/or appropriate for each design, design concept, and/or theme, including background materials, photographs, sketches, and/or depictions;

C. Obtaining full releases for all designs, design concepts, and/or themes, that are covered by a copyright, trademark, or any other type of privacy or publicity right; and

D. Submitting the designs, design concepts, and/or themes for the Louisiana commemorative coin and all related materials and/or releases to the governor no later than April 1, 2000.

SECTION 3: In accordance with the design concept parameters of the Fifty States Commemorative Coin Program, none of the designs, design concepts, and/or themes submitted to the governor shall include:

1. The head and shoulders portrait or bust of any person living or dead, or portrait of any living person;
2. The State Flag or the State Seal of the state of Louisiana;
3. An inscription; or

4. A logo or depiction of any specific commercial, private, educational, civic, religious, sport or other organization whose membership or ownership is not universal.

SECTION 4: The Commission shall be composed of a maximum of sixteen (16) members appointed by, and serving at the pleasure of, the governor. The membership of the Commission shall be selected as follows:

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

B. The state treasurer, or the state treasurer's designee; and

C. A minimum of seven (7) and a maximum of fourteen (14) citizens of the state of Louisiana knowledgeable about rare coins and/or the geography, flora, fauna, history, political development, and/or natural heritage of the state of Louisiana selected from the seven (7) congressional districts of Louisiana.

SECTION 5: The governor shall appoint the chair of the Commission from its membership. All other officers shall be elected by the membership of the Commission.

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

SECTION 7: Support staff for the Commission and facilities for its meetings shall be provided by the Office of the Governor.

SECTION 8: Commission members shall not receive additional compensation, a per diem, or travel expenses from the Office of the Governor for serving on the Commission.

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 30th day of July, 1999.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9908#069

EXECUTIVE ORDER MJF 99-37

Louisiana Workforce Commission—State
Workforce Investment Board

WHEREAS, the Louisiana Workforce Commission (hereafter "Commission") was created in the office of the Governor by Act No. 1 of the 1997 Regular Session of the Legislature, through the enactment of R.S. 23:71-6 and R.S. 23:2041-2192, (hereafter "Act No. 1") to develop a workforce development system with a strategic statewide workforce education and training program plan that would provide Louisiana's citizens an opportunity to acquire the

skills necessary for economic prosperity and businesses access to skilled workers;

WHEREAS, pursuant to Act No. 1, the Commission was directed to develop a multi-agency cooperative approach to job training by coordinating with affected agencies and workforce development entities to develop a state plan for the integrated delivery of all workforce education, training, employment and related programs in order to eliminate duplication and provide efficient service, and to establish a comprehensive labor market information system which reflects the state's overall training and education efforts and provides consumer information on employment and training opportunities and projected workforce and job growth demand statewide by geographic regions so as to better serve the decision-making needs of state policy makers and Louisiana citizens;

WHEREAS, Act No. 1 designated the Commission as a human resource investment council under the Job Training Reform Amendments of 1992 to the Job Training Partnership Act of 1982, 29 U.S.C. 1501, *et seq.* (hereafter "JTPA");

WHEREAS, the JTPA is in the process of being phased out by the Federal Workforce Investment Act of 1998, 29 U.S.C. 2801, *et seq.*, (hereafter "Investment Act") and it provides for an orderly transition from authority under the JTPA to workforce investment systems established pursuant to the Investment Act and provides for references in federal laws to be deemed, by July 1, 2000, to refer to corresponding provisions of the Investment Act;

WHEREAS, under the Investment Act, for a state to be eligible to receive federal funding through the Investment Act or the Wagner-Peyser Act, 29 U.S.C. 49, *et seq.*, its governor must submit to appropriate heads of federal agencies a single plan which outlines the state's five (5) year strategy for a statewide workforce investment system and meets the requirements of the Investment Act, 29 U.S.C. 2821, (hereafter "state plan");

WHEREAS, the Investment Act requires each state to establish a state workforce investment board to assist the governor in the development of a state plan and to carry out other functions such as the development and continuous improvement of a statewide system of workforce education and training activities, the designation of local workforce investment areas, and the development and continuous improvement of comprehensive state performance measures;

WHEREAS, the Investment Act permits a state to satisfy the requirement for the establishment of a state workforce investment board by utilizing a state workforce development board that was in existence on December 31, 1997, was established pursuant to the JTPA prior to December 31, 1997, and has members who represent businesses and of labor organizations in the state; and

WHEREAS, for a state to receive an allotment for workforce investment activities the Investment Act requires the governor of the state to designate local workforce investment areas within the state, and it requires the governor to certify a local workforce investment board in each of those areas to set policy for the portion of the statewide investment system within the area;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority

vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The Louisiana Workforce Commission (hereafter "Commission") is hereby designated as the state workforce investment board for the state of Louisiana within the meaning of the Federal Workforce Investment Act of 1998, 29 U.S.C. 2801, *et seq.*, (hereafter "Investment Act"). In this capacity, the Commission shall assist the governor in developing a unified state plan which outlines a five (5) year strategy for Louisiana's statewide workforce investment system (hereafter "state plan") that fulfills the requirements of the Investment Act.

SECTION 2: For purposes of implementing individual programs within the state plan, any agency designated by the governor or the Louisiana Legislature as the administrative agency for a specific program that is included in the state plan shall maintain its authority and its responsibility to administer the program, and shall coordinate the program's activities with the Commission as set forth in Act No.1 of the 1997 Regular Session of the Legislature and the state plan.

SECTION 3: The Commission shall annually submit a state plan to the governor that includes, but is not limited to, the workforce education and training programs and services encompassed in the following:

A. Job Training Partnership Act, 29 U.S.C. 1501, *et seq.*, (hereafter "JTPA") activities authorized under title I of the Investment Act, including Adult and Youth Employment and Training and Dislocated Worker programs;

B. Adult Education and Family Literacy Act, 20 U.S.C. 9201, *et seq.*, activities authorized under title II of the Investment Act;

C. Secondary and post-secondary education programs authorized under the Carl Perkins Vocational and Applied Technology Education Act, 20 U.S.C. 2301, *et seq.*;

D. Trade Adjustment Assistance activities authorized under chapter 2 of title II of the Trade Act of 1974, 19 U.S.C. 2271, *et seq.*;

E. Vocational rehabilitation programs authorized under title I of the Rehabilitation Act of 1973, 29 U.S.C. 720, *et seq.*;

F. Veterans employment programs; and

G. Workforce training programs authorized under state unemployment compensation laws.

SECTION 4: Each of the eighteen (18) areas of the state of Louisiana currently designated as a JTPA service delivery area shall constitute a local workforce investment area within the state and shall be governed by a local workforce investment board (hereafter "local board"). The

membership composition of each local board shall meet the criteria set forth in the Investment Act and the state plan.

SECTION 5: The state of Louisiana shall be divided into the following eight (8) regional labor market areas which shall be utilized for strategic planning, occupational forecasting, and providing workforce education and training services:

A. The parishes of St. James, St. John the Baptist, St. Charles, St. Tammany, Jefferson, Orleans, Plaquemines and St. Bernard;

B. The parishes of Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, Washington, Iberville, West Baton Rouge, East Baton Rouge, Livingston, and Ascension;

C. The parishes of Terrebonne, Assumption, and Lafourche;

D. The parishes of Evangeline, St. Landry, Acadia, Lafayette, Vermillion, Iberia, St. Mary, and St. Martin;

E. The parishes of Beauregard, Allen, Calcasieu, Jefferson Davis, and Cameron;

F. The parishes of Winn, LaSalle, Catahoula, Concordia, Grant, Vernon, Rapides, and Avoyelles;

G. The parishes of Caddo, Bossier, Webster, Claiborne, Lincoln, DeSoto, Red River, Bienville, Sabine, and Natchitoches; and

H. The parishes of Union, Morehouse, West Carroll, East Carroll, Jackson, Ouachita, Richland, Madison, Caldwell, Franklin, and Tensas.

SECTION 6: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Commission in implementing the provisions of this Order.

SECTION 7: 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 5th day of August, 1999.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9908#070

Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDA

Office of the Governor Division of Administration

Taxable Compensation on Employee Provided Parking
(LAC 4:V.Chapter 41)

Title 4 ADMINISTRATION

Part V. Policy and Procedure Memorandum

Chapter 41. Taxable Compensation—PPM No. 73

§4101. Purpose And Scope

A. The purpose of this memorandum is to establish a policy for the reporting of all taxable compensation provided to employees, withholding of applicable amounts to meet the employee's tax liability associated with the taxable compensation, to provide guidelines for establishing a value for taxable compensation, and to provide guidelines for inclusion or exclusion of fringe benefits as taxable compensation.

B. All boards, commissions, departments, agencies, institutions, and offices of the executive branch of state government shall comply with this memorandum.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:528 (July 1989), repromulgated LR 20:374 (April 1994), amended LR 25:1406 (August 1999).

§4103. Definitions

For purposes of this memorandum the following definitions shall apply.

Compensation—includes wages, salaries, bonuses, tips, commissions, fringe benefits, termination or severance pay, commission, per diem, and any and all similar items.

Fair Market Value (FMV)—that amount of compensation that would be paid between unrelated third parties to obtain a service or benefit.

Fringe Benefits—meals, lodging, allowances, vehicle personal usage, moving expenses, etc.

Inkind—noncash compensation, may include meals, lodging, vehicle personal use, moving expenses, etc.

Reimbursed Expenses—items of expenditure incurred by an employee in the performance of his job.

Tax Liability—includes federal and state tax withholding, FICA and Medicaid withholding, and any penalty or interest payment due as a result of noncompliance.

Taxable Compensation—all compensation items not excludable as income under a specific IRS Code Section.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:528 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§4105. Policy

A. - C. ...

D. Values for state owned housing taxable to the employee should be based on the values provided by the Office of Statewide Reporting and Accounting Policy. Agencies must also include the value of utilities, such as electricity, gas, water and sewerage service, as these costs

are not included in the values provided by the Office of Statewide Reporting and Accounting Policy

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:528 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§4107. Reporting Requirements

A. Each board, commission, department, agency, institution or office must develop a plan each calendar year delineating those conditions under which an employee shall receive any compensation other than salary, wages, per diem for board members and those benefits provided by the State Employees' Group Benefits Program and the various retirement systems. The plan must include the specific employee receiving compensation, the valuation method of the compensation, the value of the compensation and any reason the compensation is partially or fully nontaxable to the employee. Such plan shall be submitted for approval to the commissioner of administration by February 1, each calendar year for the immediately preceding calendar year.

B. ...

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:529 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§4109. Reimbursed Expenses

Payments to employees in accordance with General Travel Regulations—PPM Number 49 for reimbursement of actual business travel expenses shall be treated as a noncompensation item.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:529 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§4111. Employment Contracts

For purpose of computing taxable compensation, the provisions of an employment contract, or state law fixing the terms of employment cannot be considered in determining if fringe benefits are intended as compensation.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:529 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§4113. Valuation Method

The general valuation rule will be FMV. Taxable cash compensation items, regardless of source, are to be reported and withheld at the dollar value paid. Taxable inkind noncash compensation, including fringe benefits, are to be included at FMV of the property transferred, excluding any payment offsets at the time of the transfer, unless excluded or adjusted under a specific Internal Revenue Code Section. There is no taxable compensation if the employee pays 100 percent of the FMV of the benefit.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:529 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§4115. Evaluation Tests For Exclusion From Taxable Compensation

The general rules of evaluation to be used in determining if and when a fringe benefit is exempt from inclusion as taxable compensation are as follows.

1. Meals

a. The value of meals furnished to an employee by and on behalf of the state will be excludable from the employee's gross compensation if two tests are met:

- i. the meals are furnished on the premises of the employer; and
- ii. the meals are furnished for the convenience of the employer.

b. Meals furnished by the state without charge will be considered furnished for the convenience of the employer if the meals are furnished for *substantial noncompensatory business reasons* of the state rather than as a means of providing additional compensation to the employee.

c. On the premises will be interpreted to mean either:

- i. quarters that constitute an integral part of the business property; or
- ii. premises on which the entity carries on some of its business activities.

2. Lodging

a. The value of lodging furnished to an employee by or on behalf of the state will be excluded from the employee's gross income, if three tests are met:

- i. the lodging is furnished on the business premises of the employer;
- ii. the lodging is furnished for the convenience of the employer; and
- iii. the employee is required to accept such lodging as a condition of his employment. The third requirement means that the employee must be required to accept the lodging on the business premises in order to enable him to properly perform the duties of his employment, which in turn will mean that the lodging is furnished because the employee is required to be available for duty at all times or because the employee could not perform the services required of him unless he was furnished such lodging.

b. On the business premises will be interpreted to mean either:

- i. living quarters that constitute an integral part of the business property; or
- ii. premises on which the entity carries on some of its business activities.

c. Ownership or control by the state of the premises furnished is not a test criteria.

d. Lodging includes utilities and associated related items such as lawn maintenance, maid service, etc. The value of utilities, etc., furnished to the employee for the convenience of the state is excludable, unless the employee contracts directly with the utility, etc., for the service.

3. Transportation

a. The value of personal use of a state vehicle must be included as taxable compensation.

b. The value for use of a state vehicle for commuting purposes shall be a flat \$1.50 per one way

commute trip (\$3 per day for round trip) if the following conditions are met:

- i. the vehicle is owned or leased by the state and is provided for and used for state business;
- ii. for bona fide noncompensatory business reasons the state requires the employee to commute to and from work in the vehicle;
- iii. the department, agency, etc., has a written policy which disallows personal use of the vehicle by the employee, or any individual whose use would be taxable to the employee, except for *de minimus* personal use such as a lunch stop between business meetings;
- iv. neither the employee nor any individual whose use would be taxable to the employee uses the vehicle for any personal purpose other than commuting and *de minimus* personal use; and
- v. the employee using the vehicle is not a control employee as defined in Temporary Regulation Section 1.61-2T(f)(5),(6).

c. For valuation of personal use of a vehicle for those employees who use a state vehicle to commute, but do not meet the conditions enumerated above, and those employees who have personal use of other modes of transportation, alternative valuation methods are available in the Internal Revenue Code and Regulations.

d. the alternative valuation methods, including the cents-per-mile rule or lease valuation method, may be utilized only upon prior approval of the commissioner of Administration.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:529 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§4117. Parking—Taxable Benefits

A. The Energy Policy Act of 1992 amended the Internal Revenue Code provisions on taxing employer provided transportation benefits. Under these provisions, employer provided parking in a public parking facility valued up to \$175 per month may be excluded from taxable income. Any amounts of \$175 or higher must be considered taxable fringes and are to be included in taxable income, unless the employee pays amounts in excess of the \$175 per month.

B. The value of the parking cost is to be based on the cost an employee would incur in an arm's-length transaction to obtain parking at the same site. If this cost cannot be determined, value should be based on the cost incurred in an arm's-length transaction to obtain other space in the same lot or a comparable lot in the same general area.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 20:376 (April 1994), amended LR 25:1407 (August 1999).

Mark C. Drennen
Commissioner

9908#008

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Board of Architectural Examiners

Architects Selection Board
(LAC 46:I.Chapter 19)

The Louisiana State Board of Architectural Examiners (LSBAE) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to repeal Chapter 19 and adopt rules pertaining to the election of architects to the Louisiana Architects Selection Board (LASB).

During the 1999 Regular Session the legislature passed an Act amending the law relative to the election and the terms of office of the architectural members of the LASB. The Act increased the number of the architectural members of the LASB from four to five; established five districts; provided that the five members be elected annually, one from each district; provided that the five members elected will serve a one year term commencing September 15, 1999; and provided that the terms of existing members will expire on September 14, 1999. The Act directed the LSBAE to conduct an election for membership under the provisions of the Act.

The LSBAE had previously conducted elections to the LASB under the rules contained in LAC 46:I.Chapter 19, all in accordance with La. R.S. 38:2311(A)(1)(a). However, the existing rules provide for a spring election (at which two architects are elected to serve a one year term beginning July 1) and a fall election (during which two architects are elected to serve a one year term beginning January 1). Further, the existing rules do not provide for elections from districts.

These emergency rules are necessary to allow the LSBAE to conduct an election of architects to the LASB for terms commencing September 15, 1999, as mandated by the legislature. A delay in promulgating these rules would have an adverse impact on the financial welfare of the State of Louisiana in the design and the construction of buildings intended for human habitation, as well as on architects and their families who may be interested in pursuing professional services contracts from the State. The LSBAE has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the state and affected architects.

This declaration of emergency is effective July 27, 1999, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 19. Architects Selection Board

§1901. Districts

A. Only one architect may be elected from each of the districts set forth in La. R.S. 38:2311(A)(1)(a).

B. If the parishes comprising any district or if the number of districts are changed by the legislature, these rules shall be revised to be consistent with the latest expression of the legislature without the need of formal action by the board.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 25:

§1903. Nominations

For terms commencing September 15 of each year, the board will accept nominations for election to the Architects Selection Board on the following basis: any resident architect holding a current Louisiana license desiring nomination must deliver a written nomination on a current form and/or reproduction obtained from board office to the board office in Baton Rouge, signed by not less than ten (10) resident architects other than the nominee holding a current Louisiana license, between June 1 and 5:00 p.m. of the final Friday in the July preceding the election. The nomination shall state the parish in which the nominee resides and the district for which election is sought. Nominations received on or before such deadline shall be considered timely delivered. Confirmation of receipt is the sole responsibility of the nominee.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 25:

§1905. Waiver of Election

If only one resident architect is nominated from any district, no election shall be held in that district, and that nominee shall be deemed elected without any further activity of the board.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 25:

§1907. Ballots

If an election is necessary, an official ballot and an official return envelope will be mailed to each resident architect in Louisiana in good standing approximately three weeks after the closing date for nominations. On the ballot shall be

printed the names of the candidates for each district in alphabetical order, the date for the return of the ballots, and any other information the board believes helpful in the election process. Attachments to the ballot may include biographical information of the candidates and instructions.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 25:

§1909. Voting

A. Only resident architects in good standing in Louisiana shall have the right to vote.

B. Ballots shall be returned in the official return envelopes provided by the board to the board office in Baton Rouge. No marks identifying the voting architect shall be placed on the ballot itself. The voting architect shall sign and provide his or her license number in the upper left-hand corner of the return envelope.

C. The ballot shall not be valid unless (1) the signature and license number appear on the return envelope, and (2) the official return envelope is received by the board office on or before the deadline. No write-in candidates will be allowed, and any ballot containing a vote for a write-in candidate will be voided.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 25:

§1911. Plurality

The candidate elected in each district will be based on plurality.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 25:

§1913. Tabulation

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

B. Alternatively, when in the discretion of the president, the manual counting of the ballots by tellers would be burdensome, or could be better performed by an outside party, the president may refer the counting of the ballots for the entire election, or any part thereof, to an accounting firm, a data processing company, or other such qualified person(s) in addition to one board member. The outside person(s) shall (1) determine that each return envelope contains the required signature and license number, and was timely received; (2) count all ballots properly prepared; and (3) certify the number of votes received by each candidate to the board

president and the executive director, who shall notify the candidates of the results.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 25:

§1915. Vacancies

Any vacancy occurring with respect to any person elected shall be filled in the following manner: The executive director shall give notice of the vacancy to any person who has previously requested such notice in writing, and the executive director shall also publish in the official journal of the state an advertisement which will appear for a period of not less than ten (10) calendar days. The advertisement in the official journal of the state need not appear more than three times during the ten (10) day period. The executive director may publish other such advertisements in his or her discretion. The advertisements shall identify the district in which a vacancy has occurred and state that any resident architect in that district holding a current Louisiana license desiring nomination must furnish a nomination signed by not less than ten (10) resident architects holding a current Louisiana license by certified mail to the board office, that a sample of the nomination may be obtained upon request from the board office, the deadline for filing the nomination, and any other information the board may consider necessary. The deadline for filing a nomination to fill a vacancy shall be at least ten (10) calendar days subsequent to the expiration of the last advertisement appearing in the official journal of the state. The board shall appoint one of the nominees to fill the vacancy, which appointee shall serve the unexpired term.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 25:

§1917. Election Contest

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 25:

Interested persons may submit written comments on this proposed rule to Ms. Mary "Teeny" Simmons, Executive

Mary "Teeny" Simmons
Executive Director

9908#019

DECLARATION OF EMERGENCY

Department of Economic Development Office of the Secretary

Economic Development Award Program (EDAP)
(LAC 13:III.Chapter 1)

The Department of Economic Development, Office of the Secretary, is exercising the emergency provision of the Administrative Procedure Act, R. S. 49:953(B) to amend rules of the Louisiana Economic Development Award Program effective August 1, 1999. These rules will prescribe in accordance with LAC 13:III. Chapter 1. These emergency rules shall remain in effect for a period of 120 days or until a final rule is promulgated, whichever occurs first.

The Department of Economic Development is exercising the emergency provision of the Administrative Procedure Act, R. S. 49:953(B), in order to publish these rules because of a recognized immediate need to assist businesses with infrastructure improvements necessary for economic growth and in order to expedite and facilitate processing of applications for funding and serve to enhance the public's understanding of the program.

The emergency action is deemed necessary to prevent delays in the awarding of grants for economic development related infrastructure improvements under the provisions of the Economic Development Award Program, inasmuch as such delays could result in the loss of industry and jobs to other states. Such disruption would likely result in diminished job creation and increased risk of higher unemployment.

The proposed emergency rules are intended to mitigate the disruptions described above.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

Chapter 1. Economic Development Award Program (EDAP)

§101. Purpose

The purpose of the program is to finance publicly owned infrastructure for industrial or business development projects that promote economic development and that require state assistance for basic infrastructure development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§103. Definitions

Applicant—the sponsoring entity requesting financial assistance from DED under this program.

Award—funding approved under this program for eligible applicants.

Awardee—an applicant [and/or company(ies)] receiving an award under this program.

Basic Infrastructure—refers to the construction, improvement or expansion of roadways, parking facilities, equipment, bridges, railroad spurs, water works, sewerage, buildings, ports, waterways and publicly owned or regulated utilities.

Company—the business enterprise for which the project is being undertaken.

DED—Louisiana Department of Economic Development.

Program—the Economic Development Award Program.

Project—an expansion, improvement and/or provision of basic infrastructure that promotes economic development, for which DED assistance is requested under this program as an incentive to influence a company's decision to locate in Louisiana, maintain or expand its Louisiana operations, or increase its capital investment in Louisiana.

Secretary—the Secretary of the Department of Economic Development.

Sponsoring Entity—the public or quasi-public entity responsible for performing and/or overseeing implementation of the project and supervising the company's compliance with the terms and conditions of the award agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§105. General Principles

The following principles will direct the administration of the Economic Development Award Program.

1. Awards are not to be construed as an entitlement for companies locating or located in Louisiana.

2. An award must reasonably be expected to be a significant factor in a company's location, investment and/or expansion decisions.

3. Awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities.

4. The retention and strengthening of existing businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state.

5. The anticipated economic benefits to the state will be considered in making the award.

6. Appropriate cost sharing among project beneficiaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§107. Eligibility

A. An eligible applicant for the Grant Award must be one of the following:

1. a public or quasi-public state entity; or
2. a political subdivision of the state.

B. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations; including state or federal taxes, or bankruptcy proceeding, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit, or if company has another contract with the Department of Economic Development in which the company is in default and/or is not in compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§109. Criteria

A. Job Creation/Retention

1. Projects must create or retain at least ten (10) permanent jobs in Louisiana.

2. Number of jobs to be retained and/or created as stated in the application will be strictly adhered to and will be made an integral part of the contract.

B. Preference will be given to projects for industries identified by the state as target industries, and to projects located in areas of the state with high unemployment levels.

C. Preference will be given to projects intended to expand, improve or provide basic infrastructure supporting mixed use by the company and the surrounding community.

D. Companies must be in full compliance with all state and federal laws.

E. No assistance may be provided for Louisiana companies relocating their operations to another labor market area (as defined by the US Census Bureau) within Louisiana, except when company gives sufficient evidence that it is otherwise likely to relocate out of Louisiana.

F. The minimum award request size shall be \$25,000.

G. Preference will be given for wages substantially above the prevailing regional wage.

H. If a company does not begin construction of the project within 365 calendar days after application approval, the Secretary, at his discretion, may cancel funding for the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§111. Application Procedure

The sponsoring entity must submit an application on a form provided by DED which shall contain, but not be limited to, the following:

1. an overview of the company, its history, and the business climate in which it operates;
2. a description of the project along with the factors creating the need, including construction, operation and maintenance plans, and a timetable for the project's completion;
3. evidence of the number, types and compensation levels of jobs to be created or retained by the project;
4. any additional information the Secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§113. Submission and Review Procedure

A. Applicants must submit their completed application to DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant, other divisions of the Department of Economic Development, and other state agencies as needed in order to:

1. evaluate the strategic importance of the project to the economic well-being of the state and local communities;
2. validate the information presented;
3. determine the overall feasibility of the company's plan.

B. An economic cost-benefit analysis of the project, including an analysis of the net economic and fiscal benefits to the state and local communities, will be prepared by DED.

C.1. Upon determination that an application meets the criteria for this program, DED staff will then make a recommendation to the Secretary of the Department of Economic Development. The application will then be reviewed and approved by the following entities in the following order:

- a. the Secretary of the Department of Economic Development;
- b. the Governor; and
- c. the Joint Legislative Committee on the Budget.

2. The Secretary can invoke emergency procedures and approve an application under the following conditions: the company documents in writing to the Secretary of Economic Development with copies to the Governor and Chairman of the Joint Legislative Committee on the Budget that a serious time constraint exists and that a new plant, expansion or closure decision is to be made in fewer than 21 days or more than 31 days before the next scheduled meeting of the Joint Legislative Committee on the Budget.

D. The final 15 percent of the grant amount will not be paid until DED staff or its designee inspects the project to assure that all work in the EDAP contract has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§115. General Award Provisions

A. Award Agreement. A contract will be executed between DED, the sponsoring entity and the company. The agreement will specify the performance objectives expected of the company(ies) and the sponsoring entity and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time lines for investment and job creation. Under the agreement, the sponsoring entity will oversee the progress of the project. DED will disburse funds to the sponsoring entity in a manner determined by DED.

B. Funding

1. Eligible project costs may include, but not be limited to, the following:

- a. engineering and architectural expenses;
- b. site acquisition;
- c. site preparation;
- d. construction expenses;
- e. building materials;
- f. capital equipment.

2. Project costs ineligible for award funds include, but are not limited to:

- a. recurrent expenses associated with the project (e.g., operation and maintenance costs);
- b. company moving expenses;
- c. expenses already approved for funding through the state's capital outlay process for which the Division of Administration and the Bond Commission have already approved a line of credit and the sale of bonds;
- d. improvements to privately-owned property, unless provisions are included in the project for the transfer of ownership to a public or quasi-public entity;
- e. refinancing of existing debt, public or private;
- f. furniture, fixtures, computers, consumables, transportation equipment, rolling stock or equipment with useful life of less than seven (7) years.

C. Amount of Award

1. The portion of the total project costs financed by the award may not exceed:

- a. ninety (90) percent for projects located in parishes with per capita personal income below the median for all parishes; or
- b. seventy-five (75) percent for projects in parishes with unemployment rates above the statewide average; or
- c. fifty (50) percent for all other projects.

d. Other state funds cannot be used as the match for EDAP funds.

2. The award amount shall not exceed twenty-five (25) percent of the total funds available to the program during a fiscal year.

3. The Secretary, in his discretion, may limit the amount of awards to effect the best allocation of resources based upon the number of projects requiring funding and the availability of program funds.

D. Conditions for Disbursement of Funds

1. Grant award funds will be available to the sponsoring entity on a reimbursement basis following

submission of required documentation to DED from the sponsoring entity.

2. Program Funding Source

a. If the program is funded through the state's general appropriations bill, only funds spent on the project after the Secretary's approval will be considered eligible for reimbursement, contingent on the final approval by the Governor and the Joint Legislative Committee on the Budget.

b. If the program is funded through a capital outlay bill, eligible expenses cannot be incurred until a cooperative endeavor agreement (contract) has been agreed upon, signed and executed.

3. Award funds will not be available for disbursement until:

a. DED receives signed commitments by the project's other financing sources (public and private);

b. DED receives signed confirmation that all technical studies or other analyses (e.g., environmental or engineering studies), and licenses or permits needed prior to the start of the project have been completed or obtained;

c. all other closing conditions specified in the award agreement have been satisfied.

E. Compliance Requirements

1. Companies and sponsoring entities shall be required to submit progress reports, describing the progress towards the performance objectives specified in the award agreement. Progress reports by sponsoring entity shall include a review and certification of company's hiring records and the extent of company's compliance with contract employment commitments. Further, sponsoring entity shall oversee the timely submission of reporting requirements of the company to DED.

2. In the event a company or sponsoring entity fails to meet its performance objectives specified in its agreement with DED, DED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

3. In the event a company or sponsoring entity knowingly files a false statement in its application or in a progress report, the company or sponsoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in La. R.S. 14:133.

4. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the sponsoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§117. Public Safety Provision

The Secretary may approve a request for funding for less than \$25,000 if the request involves the protection and enhancement of the safety of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

Kevin P. Reilly, Sr.
Secretary

9908#033

DECLARATION OF EMERGENCY

Department of Economic Development Office of the Secretary

Port Development Program (LAC 13:III.Chapter 5)

The Office of the Secretary of the Department of Economic Development is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority of Acts 1998, No. 29, Section 1 of the Regular Session of the Legislature to promulgate emergency rules of the Louisiana Port Development Program effective August 1, 1999. These rules will prescribe in accordance with LAC 13:III. Chapter 5. These emergency rules shall remain in effect for a period of 120 days or until a final rule is promulgated, whichever occurs first. It is necessary to publish these rules because of a recognized immediate need to provide financial assistance to public port authorities in Louisiana for capital projects which improve or maintain waterborne commerce and intermodal port infrastructure in the state and to incorporate changes thereto that will expedite and facilitate processing of applications for funding and serve to enhance the public's understanding of the program in an effort to improve efficiency of the system and contribute to the location of new industry, or expansion and retention of existing industry and employment within the state.

Without these Emergency Rules, the public welfare may be harmed as a result of possible disruption in the efficiency of the public port authorities in Louisiana and create delays in awarding grants for economic development related infrastructure improvements under the provisions of the Port Development Program, inasmuch as such delays could result in the loss of industry and jobs.

The proposed Emergency Rules are intended to mitigate the disruptions described above.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Incentive Programs

Chapter 5. Port Development Program

§501. Purpose and Scope

The purpose of the program is to provide financial assistance to public port authorities for capital projects which improve or maintain waterborne commerce and intermodal port infrastructure. Under this program, the Louisiana Department of Economic Development (DED) is authorized to accept and review applications from eligible

port authorities for project assistance. Upon favorable evaluation and prioritization of individual projects by DED's review committee, recommendations may be made to the Secretary of Economic Development for funding qualified projects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§503. Definitions

Applicant—the sponsoring Louisiana port authority requesting financial assistance from DED under this program.

Award—funding approved under this program for eligible applicants.

Awardee—an applicant receiving an award under this program.

Capital Projects—include any port infrastructure development project including land acquisition and attendant development costs.

Cash—any asset on the port's records used for the project. Land's value will be determined by its appraised value.

DED—Louisiana Department of Economic Development.

In-kind—any service, land or equipment, related to the project, donated to a port outside of its legal entity.

Intermodal Infrastructure Development—refers to the provision of highway, rail, water or air access; and internal trans-loading or distribution facilities to property owned and maintained by a local port authority.

Program—the Port Development Program.

Project Priority List—a list of projects proposed by eligible applicants ranked for program funding by the Louisiana Department of Economic Development.

Secretary—the Secretary of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§505. Program Objective

The objectives of this program are to develop and sustain the Louisiana ports and the navigable waterways system, particularly those infrastructures that improve efficiency of the system and contribute to the location of new industry, or expansion and retention of existing industry and employment within the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§507. Eligibility

All Louisiana public port authorities are eligible to participate in the program. However, port projects that are eligible for funding under the Louisiana Port Construction and Development Priority Fund administered by the Louisiana Department of Transportation and Development will not be eligible for funding under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§509. Types of Projects

The types of projects funded under the program will include any type of port capital development projects, rehabilitation and maintenance, intermodal projects, land acquisition, site prep work and project feasibility studies that promote water transport and waterfront development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§511. Match

Each port authority will provide a match equal to at least 50 percent of the total cost of the project. The match may be furnished in cash or in-kind. No state funds can be used as matching funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§513. Application Procedure

Port authorities sponsoring projects are expected to provide complete and verifiable information on the proposed projects. The project information supplied should be accurate and documented in order for the Department to adequately assess the merits of the project and prepare a project priority list. The sponsoring port authority must submit an application on a form provided by the Department which will contain, but not be limited to the following:

1. A description of the proposed project including the nature and goals of the project, design and its major components. Justify the immediate need for the project.
2. Indicate the total cost of the project. Also show the sources of funding and when they will be available.
3. Provide construction, operation and maintenance plans, and a timetable for the project's completion.
4. Any additional information the Secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§515. Submission of Applications

Applications must be submitted to the DED by March 1 to be considered for funding for the following fiscal year. Two copies of the application with all attachments should be submitted to the Secretary of DED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§517. Criteria

A. Consideration will be given to projects which have completed preliminary planning work and ensure that the project is initiated within the funding year in which the project is approved.

B. Consideration will be given to project contribution to regional economic development.

C. Preference will be given to projects with high employment potential and payroll.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§519. Project Review Procedure

A. Submitted applications will be reviewed and evaluated by a DED review committee. The Committee will prepare a list of projects for funding and, if necessary, input may be required from the applicant, other divisions of the Department of Economic Development, and other state agencies as needed in order to:

1. evaluate the strategic importance of the project to the economic well-being of the state and local communities;
2. validate the information presented;
3. determine the overall feasibility of the port's plan.

B. After evaluation the review committee will submit a list of projects recommended to be eligible for funding to the Secretary of the Department of Economic development.

C. The Secretary of DED will have the final authority in funding any recommended project under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§521. Funding

A port shall not be allocated in excess of 50 percent of the total appropriation as long as the appropriation does not exceed \$5 million. In the event the appropriation for the Port Development Program exceeds \$5 million, an individual award shall not exceed \$1 million each.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§523. Conditions for Disbursement of Funds

A. Grant award funds will be available to each port on a reimbursement basis following submission of required documentation to DED. Only funds spent on the project after the cooperative endeavor agreement (contract) has been agreed upon, signed and executed will be considered eligible for reimbursement.

B. Ports will be eligible for reimbursement of approved expenses up to 90 percent of the award amount. After all deliverables are completed according to the terms of the contract, the final 10 percent of the award will be made available for reimbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§525. Monitoring

All monitoring will be done by DED. A portion of the fiscal years' appropriation, up to 5 percent, not to exceed \$50,000, may be used by the DED to fund monitoring costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

Kevin P. Reilly, Sr.
Secretary

9908#034

DECLARATION OF EMERGENCY

Department of Economic Development Office of the Secretary

Workforce Development and Training Program (LAC 13:III.Chapter 3)

(Editor's Note: The Department of Economic Development is in the process of codifying their rules preparatory to publishing the volume, LAC 13. Sections and Chapters have been renumbered and reordered.)

The Department of Economic Development, Office of the Secretary, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend emergency rules of the Louisiana Workforce Development and Training Program effective August 1, 1999. These rules will prescribe in accordance with LAC 13:III.Chapter 3. These emergency rules shall remain in effect for a period of 120 days or until a final rule is promulgated, whichever occurs first.

The Department of Economic Development is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), in order to publish these rules because of a recognized immediate need to assist businesses with workforce training necessary for economic growth in Louisiana and to incorporate changes thereto that will expedite and facilitate processing of applications for funding and serve to enhance the public's understanding of the program.

The emergency action is deemed necessary to prevent delays in the awarding of grants for workforce development training under the provisions of the Workforce Development and Training Program, inasmuch as such delays could result in the loss of industry and jobs to other states. Such disruption would likely result in diminished job creation and increased risk of higher unemployment.

The proposed emergency rules are intended to mitigate the disruptions described above.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

Chapter 3. Workforce Development and Training Program

§301. Purpose

The purpose of the program is to develop and provide customized workforce training programs to existing and prospective Louisiana businesses as a means of:

1. improving the competitiveness and productivity of Louisiana's workforce and business community;
2. assisting Louisiana businesses in promoting employment stability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§303. Definitions

Applicant—the entity requesting training assistance from DED under this program.

Award—funding approved under this program for eligible training activities.

Awardee—an applicant (and/or company(ies)) receiving a training award under this program.

Contract—a legally enforceable agreement between DED, the awardee and a sponsoring entity governing the terms and conditions of the training award.

Contractee—the awardee and sponsoring entity that are party to a training award contract with DED under this program.

DED—Louisiana Department of Economic Development.

Program—the Workforce Development and Training Program.

Secretary—the Secretary of the Department of Economic Development.

Sponsoring Entity—the public or not for profit entity responsible for performing and/or overseeing implementation of the project and supervising the company's compliance with the terms and conditions of the award agreement and for reimbursing the awardee for eligible training costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§305. General Principles

The following principles will direct the administration of the Workforce Development and Training Program:

1. training awards are not to be construed as an entitlement for companies locating or located in Louisiana;
2. awards must reasonably be expected to be a significant factor in companies' location, investment, and/or expansion decisions;
3. awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities;
4. evaluations for the enhancement of existing Louisiana businesses that are adding locations within the state will be conducted with the same procedures and with the same priority as the recruitment of new businesses to the state;
5. the anticipated economic benefits to the state will be considered in making the award;
6. awards will be coordinated with the existing plans and programs of other government agencies whenever appropriate; and
7. a train-the-trainer approach will be adopted whenever appropriate in order to strengthen the institutional capacity of public and private sector training providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§307. Program Descriptions

This program provides two types of training assistance for companies seeking prospective employees who possess

sufficient skills to perform the jobs to be created by the companies. The training to be funded can include:

1. pre-employment training for which prospective employees are identified and recruited for training with the knowledge that the company will hire a portion of the trainees; and

2. on-the-job (and/or upgrade) training for employees that is needed to bring the employees up to a minimum skill and/or productivity level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§309. Eligibility

A. An eligible applicant is an employer, or community-based organization that seeks customized training services to provide training in a particular industry.

B. Employees to be trained must be employed in Louisiana, except for projects locating at Stennis Space Center in Mississippi. Employees to be trained for projects at Stennis Space Center must be Louisiana residents.

C. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations; including state or federal taxes, or bankruptcy proceeding, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit, or if company has another contract with the Department of Economic Development in which the company is in default and/or is not in compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§311. Criteria

A. General. (These apply to all training programs administered under these rules.)

1. Preference will be given to applicants in industries identified by the state as target industries, and to applicants locating in areas of the state with high unemployment levels.

2. Employer(s) must be in full compliance with Louisiana unemployment insurance laws.

3. If a company does not begin the project within 365 days of application approval, the secretary, at his discretion, may cancel funding of the training.

4. Number of jobs to be retained and/or created as stated in the application will be adhered to and will be made an integral part of the contract.

B. Pre-Employment, Upgrade and On-the-Job Training

1. Applicants must create at least ten (10) net new jobs in the state, unless upgrade training is involved. Upgrade training must be provided to a minimum of 10 employees.

2. Participation in pre-employment training does not guarantee students a job upon completion of their training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§313. Application Procedure

DED will provide a standard form which applicants will use to apply for assistance. The application form will contain, but not be limited to, detailed descriptions of the following:

1. an overview of the company, its history, and the business climate in which it operates;

2. the company's overall training plan, including a summary of the types and amounts of training to be provided and a description of how the company determined its need for training;

3. the specific training programs for which DED assistance is requested, including descriptions of the methods, providers and costs of the proposed training; and

4. any additional information the Secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§315. Submission and Review Procedure

A. Applicants must submit their completed application to DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant, other divisions of the Department of Economic Development, and other state agencies as needed, in order to:

1. evaluate the importance of the proposed training to the economic well-being of the state and local communities;

2. identify the availability of existing training programs which could be adapted to meet the employer's needs;

3. verify that the business will continue to operate during the period of the contract;

4. determine if employer's training plan is cost effective.

B. A cost-benefit analysis tailored to applicants' specific industries shall be conducted by DED to determine the net benefit to the state of the proposed training award.

C. Upon determination that an application meets the criteria for this program, DED staff will then make a recommendation to the Secretary of the Department of Economic Development. The application will then be reviewed and approved by the following entities in the following order:

1. the Secretary of the Department of Economic Development;

2. the Governor; and

3. the Joint Legislative Committee on the Budget.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§317. General Award Provisions

A. Award Agreement

1. A contract will be executed between DED, the applicant (and/or company(ies) receiving training) and an appropriate sponsoring entity from the same geographic area as the applicant. The contract will specify the performance objectives expected of the company(ies) and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time lines for job training and job creation.

2. DED will disburse funds to the sponsoring entity in a manner determined by DED.

3. The sponsoring entity will oversee the progress of the training and reimburse the applicant from cost reports submitted by the applicant on a form approved by DED. DED, at its discretion, may request the sponsor to obtain additional information.

4. Funds may be used for training programs extending up to two (2) years in duration.

5. Contracts issued under previous rules may be amended to reflect current regulations as of the date of the most recent change, upon request and approval of the Contractor and the Secretary.

B. Funding. Award may not exceed \$500,000 for total amount.

1. The Louisiana Workforce Development and Training Program offers financial assistance in the form of a grant for reimbursement of eligible training costs specified in the award agreement.

2. Eligible training costs may include the following:

a. Instruction Costs: wages for company trainers and training coordinators, Louisiana public and/or private school tuition, contracts for vendor trainers, training seminars;

b. Travel Costs: travel for trainers, training coordinators and trainees;

c. Materials and Supplies Costs: training texts and manuals, audio/visual materials, raw materials for manufacturer's training purposes only and Computer Based Training (CBT) software; and

d. Other Costs: When necessary for training, such as facility rental.

3. Training costs ineligible for reimbursement include:

a. trainee wages and fringe benefits;

b. non-consumable tangible property (e.g., equipment, calculators, furniture, classroom fixtures, non-Computer Based Training (CBT) software), unless owned by a public training provider;

c. out-of-state, publicly supported schools;

d. employee handbooks;

e. scrap produced during training;

f. food, refreshments; and

g. awards.

4. Training activities eligible for funding consist of:

a. company-specific skills: skills which are unique to a company's workplace, equipment and/or capital investment;

b. quality standards skills: skills which are intended to increase the quality of a company's products and/or services and ensure compliance with accepted international and industrial quality standards (e.g., ISO standards); and

c. skills pertaining to instructional methods and techniques used by trainers (e.g., train-the-trainer activities).

C. Conditions for Disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of required documentation to DED by sponsoring entity. Funds will not be available for reimbursement until a training agreement between the applicant (and/or company(ies) receiving the training), DED and sponsoring entity has been executed. Only funds spent on the project after the Secretary's approval will be considered eligible for reimbursement. However, reimbursement's can only be provided upon final execution of a contract with the Department of Economic Development.

2. Companies will be eligible for reimbursement at 90 percent until all contracted performance objectives have been met. After the company has achieved 100 percent of its contracted performance objectives, the remaining 10 percent of the grant award will be made available for reimbursement.

D. Compliance Requirements

1. Contractees shall be required to complete quarterly reports describing progress toward the performance objectives specified in their contract with DED. Progress reports by sponsoring entity shall include a review and certification of company's hiring records and the extent of company's compliance with contract employment commitments. Further, sponsoring entity shall oversee the timely submission of reporting requirements of the company to DED.

2. The termination of employees during the contract period who have received program-funded training shall be for documented cause only, which shall include voluntary termination.

3. In the event a company or sponsoring entity fails to meet its performance objectives specified in its contract with DED, DED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

4. In the event a company or sponsoring entity knowingly files a false statement in its application or in a progress report, the company or sponsoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in La. R.S. 14:133.

5. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the sponsoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§319. Contract Monitoring

All monitoring will be done by DED. A portion of the fiscal years' appropriation, up to 5 percent or a maximum of \$200,000.00, may be used by the DED to fund monitoring costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

Kevin P. Reilly, Sr.
Secretary

9908#035

DECLARATION OF EMERGENCY

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Opportunity Program for Students
(TOPS)—Application Deadlines (LAC 28:IV.503)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Tuition Opportunity Program for Students.

The emergency rules are necessary 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. The commission has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective August 4, 1999, 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 5. Application; Application Deadlines and
Proof of Compliance**

§503. Application Deadlines

A. - A.4. ...

B. Final Deadline. The final deadline for receipt of a student's initial application for state aid is July 1 of the high school academic year (which includes the Fall, Spring and Summer sessions) in which a student graduates. To renew an award in subsequent years, annual applications must be received by the July 1 deadline. Any student submitting an application for state aid in a subsequent year received after the July 1 deadline will not be processed, and the student will not be eligible for an award in that year. For example, for a student graduating in the 1998-99 high school academic year, the student must submit an application (the Free Application for Federal Student Aid) to be received by the federal processor by July 1, 1999, and must submit an application to be received by the July 1 deadline for every

year thereafter in which the student desires to renew the award. Students who received a TOPS award during academic year 1998-99 and who must file the FAFSA for academic year 1999-2000 to renew their awards, have until September 15, 1999 for their application to be received by the federal processor.

* * *

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 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25:655 (April 1999), LR 25:

Jack L. Guinn
Executive Director

9908#024

DECLARATION OF EMERGENCY

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Payment Program for Medical School Students
(LAC 28:IV.2301, 2303, 2313)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to implement rules for the Tuition Payment Program for Medical School Students.

The emergency rules are necessary to allow the Louisiana Office of Student Financial Assistance and state educational institutions to administer this program. 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. The commission has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective July 13, 1999, 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 23. Tuition Payment Program for Medical
School Students**

§2301. General Provisions

A. - B. ...

1. annually awards not more than four monetary loans to eligible students who commit to practice the profession of medicine as a primary care physician, as defined herein, for at least two consecutive years in a rural or poor community in Louisiana designated a "rural health shortage area" by the Louisiana Department of Health and Hospitals (hereinafter referred to as a "Designated Area"). When the individual receiving the award practices medicine in a Designated Area for two consecutive years as provided in these rules, the loans are forgiven in full.

2. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:

§2303. Establishing Eligibility

A. - A.4. ...

5. agree to the full time practice of the profession of medicine as a primary care physician in a Designated Area for at least two consecutive years after graduating from medical school and completing a residency program in a primary care field as defined in §2303.D, above; and

A.6. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:

§2313. Discharge of Obligation

A. - B.1. ...

2. practice as a primary care physician on a full time basis for a period of at least two consecutive years in a Designated Area.

C. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:

Jack L. Guinn
Executive Director

9908#005

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Board of Nursing**

Registration and Licensure Fees
(LAC 46:XLVII.3341)

The Louisiana State Board of Nursing is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(b), and pursuant to the authority granted the board by R.S. 37:918, R.S. 37:919 amends the following emergency rule effective September 15, 1999, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Board of Nursing finds it necessary to amend this rule to increase the fees of the board.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

§3341. Fees for Registration and Licensure

A. Notwithstanding any other provisions of this Chapter, the board shall collect in advance fees for licensure and administrative services as follows:

- 1. Licensure
 - a Examination Application \$ 80.00

- b. Endorsement Application \$100.00
- c. RN Renewal Fee \$45.00
- d. RN Late Renewal Fee \$90.00
- e. Retired License Fee (one time fee) \$45.00
- f. RN Reinstatement from Inactive or Retired Status \$45.00
- g. RN Reinstatement from Delinquent Status \$90.00
- h. Initial APRN Licensure Application \$100.00
- i. APRN Endorsement Application \$100.00
- j. APRN Renewal Fee \$50.00
- k. APRN Late Renewal Fee \$100.00
- l. APRN Reinstatement from Inactive Status \$50.00
- m. APRN Reinstatement from Delinquent Status \$100.00
- n. APRN Prescriptive Authority Application \$100.00
- o. APRN Prescriptive Authority Site Change \$25.00
- p. Reinstatement of Prescriptive Authority Privileges \$ 50.00
- q. Verification of Licensure \$ 25.00
- r. Duplicate Application \$ 10.00
- s. Duplicate License \$ 10.00
- 2. Miscellaneous
 - a. Consultation \$100.00 /hour
 - b. Photocopies \$.50/page
 - c. Certified Documents \$1.00/page
 - d. Listing of Registered Nurses/Advanced Practice
Registered Nurses \$10.00 programming fee plus costs as follows:
.02/per name on disk
.04/per name on cheshire labels
.06/per name on press-on labels
 - e. Special Programming Request Actual Costs (minimum \$100.00)/per program

B. ...

1. The board shall collect a \$25 fee for returned checks for any of the fees discussed in §3341.A.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 and R.S. 37:927.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), amended LR 25:

Barbara L. Morvant, R.N., M.N.
Executive Director

9908#029

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Public Health

Sanitary Code—Refrigeration of Shellstock
Oysters, Clams, and Mussels (Chapter IX)

The Department of Health and Hospitals, Office of Public Health is adopting the following Emergency Rule in the Sanitary Code, Chapter IX, Commercial Seafood Program, in accordance with the provisions of the Louisiana Administrative Procedure Act. This Emergency Rule is necessary since the current National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish requirements were changed at the recent Interstate Shellfish Sanitation Conference. The requirements of the National Shellfish Sanitation Program must be complied with in order for shellstock harvested in Louisiana to enter into interstate commerce.

Emergency Rule

9:052 Refrigeration of Shellstock Oysters, Clams, and Mussels

Shell-stock shall be placed under temperature control by means of mechanical refrigeration, or other approved means that is capable of lowering the temperature of the shellstock or is capable of maintaining the shell-stock at 50 degrees Fahrenheit or less. When shellstock is being unloaded by a vessel into a conveyance that is using mechanical refrigeration, the temperature of the conveyance shall be measured prior to the shell-stock entering the conveyance. The temperature of the conveyance prior to loading must not exceed 50 degrees Fahrenheit. During the loading of the conveyance, the mechanical refrigeration device may be turned off.

The effective date of this Emergency Rule is August 20, 1999 and it shall remain in effect for 120 days or until the promulgation of the final Rule, whichever occurs first.

David W. Hood
Secretary

9908#064

DECLARATION OF EMERGENCY

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

Home and Community-Based Waiver Services
Habilitative Services

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in July of 1990 to implement a Home and Community-

Based Service waiver designed to meet the need of developmentally disabled individuals by providing an array of residential and family support services in the community (*Louisiana Register*, Vol. 16, No. 7). In compliance with Section 1915(c)(5) of the Social Security Act, the July 1990 rule adopted a provision to only furnish habilitation services to those persons who were deinstitutionalized from a Medicaid certified nursing facility or ICF/MR. The Balanced Budget Act of 1997, Public Law 105-33, Section 4743 eliminates the requirement of prior institutionalization with respect to habilitation services furnished under a waiver for home or community-based services.

Therefore, the Bureau has decided to amend the July 1990 rule to remove the requirement that states, "To be eligible for Habilitative/Supported Employment services, the individual must have been deinstitutionalized from a SNF, ICF, or ICF/MR."

This action is necessary to secure enhanced federal funding and to increase access to habilitative services for those waiver recipients who do not qualify for these services under the current criteria. It is anticipated that the implementation of this emergency rule will increase expenditures by approximately \$1,249,220.

Emergency Rule

Effective July 23, 1999 the Department of Health and Hospitals, Bureau of Health Services Financing amends the July 20, 1990 rule to remove the requirement that states, "To be eligible for Habilitative/Supported Employment services, the individual must have been deinstitutionalized from a SNF, ICF, or ICF/MR."

All waiver recipients who are in need of these services in order to prevent institutionalization may receive them. However, it is still required that the individuals receiving these services either are not eligible or have been referred and rejected for participation in Section 110 of the Rehabilitation Act of 1973 or programs funded under P.L. 94-142.

Interested persons may submit written comments to Thomas D. Collins, 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

9908#065

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

1999-2000 Early Migratory Bird Seasons

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following emergency rule.

The hunting seasons for early migratory birds during the 1999-2000 hunting season shall be as follows:

Migratory Birds Other than Waterfowl 1999-2000 Hunting Seasons	
Dove:	Split Season, Statewide, 70 days September 4 - September 12 October 16 - November 15 December 11 - January 9 Daily bag limit 12, Possession Limit 24
Teal:	September 11 - September 26 Daily bag limit 4, Possession limit 8, Blue-winged, Green-winged and Cinnamon teal only. Federal and State waterfowl stamps required.
Rails:	Split Season September 11 - September 26 Remainder of season to be set at a later date.
King and Clapper:	Daily bag limit 15 in the aggregate, Possession 30
Sora and Virginia:	Daily bag and possession 25 in the aggregate.
Gallinules:	Split Season September 11 - September 26 Remainder of season to be set at a later date. Daily bag limit 15, Possession limit 30
Snipe:	November 6 - February 20 Daily bag limit 8, Possession limit 16
Woodcock:	December 18 - January 31 Daily bag limit 3, Possession 6
Shooting Hours:	
Teal, Rail, Snipe, Woodcock and Gallinule: One-half hour before sunrise to sunset.	
Dove: One-half hour before sunrise to sunset except on September 4-5, October 16-17, and December 11-12 when shooting hours will be 12:00 noon to sunset.	

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 200,000 sportsmen, selection of season dates, bag limits, and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective on September 1, 1999 and extend through sunset on February 28, 2000.

Bill A. Busbice, Jr.
Chairman

9908#032

DECLARATION OF EMERGENCY

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

1999 Fall Inshore Shrimp Season

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S.

56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters, the Wildlife and Fisheries Commission does hereby set the 1999 Fall Inshore Shrimp Season to open as follows:

Zone 1, that portion of Louisiana's inshore waters from the Mississippi State line westward to the eastern shore of South Pass of the Mississippi River, and

Zone 2, that portion of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, and

Zone 3, that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island westward to the Texas State Line, all to open at official sunrise August 16, 1999.

The Commission also hereby sets the closing date for the 1999 Fall Inshore Shrimp Season in Zone 2 and Zone 3 at official sunset December 20, 1999, and Zone 1 at official sunset December 31, 1999 except in Breton and Chandeleur Sounds in Zone 1, as described in R.S. 56:495.1 A.(2), which shall remain open until 6:00 a.m., March 31, 2000. The Commission also grants authority to the Secretary of the Department of Wildlife and Fisheries to change the opening or closing dates if biological and technical data indicate the need to do so or if enforcement problems develop.

Bill A. Busbice, Jr.
Chairman

9908#036

DECLARATION OF EMERGENCY

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

Fall Commercial Red Snapper Season—1999

The red snapper fishery in the Gulf of Mexico is cooperatively managed by the Louisiana Department of Wildlife and Fisheries (LDWF) and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., generally three miles offshore. NMFS provides rules for commercial harvest seasons and limits for red snapper in the EEZ off of Louisiana, and NMFS and the Gulf Council request that consistent regulations be established in Louisiana waters. NMFS and the Gulf Council typically request consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

The 1999 fall commercial red snapper fishery in EEZ waters will open beginning September 1. During the season, the fishery will open at noon on the first day of each month, and close at noon on the fifteenth day of each month, until the allotted portion of the commercial red snapper quota has been harvested. In order to enact regulations so as to have compatible regulations in place in Louisiana waters for the

1999 fall commercial red snapper season, it is necessary that emergency rules be enacted.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish; the Wildlife and Fisheries Commission hereby sets the following season for commercial harvest of red snapper in Louisiana state waters:

The season for the fall commercial fishery for red snapper in Louisiana state waters will open at 12:00 noon September 1, 1999. The commercial fishery for red snapper in Louisiana waters will close at 12:00 noon September 15, 1999. The commercial season for red snapper harvest in Louisiana state waters will also reopen at 12:00 noon on October 1, 1999 and close at 12:00 noon on October 15, and thereafter open at 12:00 noon on the first of each month and close at 12:00 noon on the fifteenth of each month, for each month of 1999 until the remainder of the 1999 commercial quota is harvested.

The Commission grants authority to the Secretary of the Department of Wildlife and Fisheries to change the closing dates for the commercial red snapper season in Louisiana state waters when he is informed that the commercial red snapper quota for the Gulf of Mexico has been harvested or projected to be harvested; such closure order shall close the season until the date set for the opening of the 2000 commercial red snapper season in Federal waters.

The Commission also grants authority to the Secretary of the Department of Wildlife and Fisheries to change the opening dates and closing dates for the commercial red snapper season in Louisiana state waters if he is informed by the Regional Administrator of the National Marine Fisheries Service (NMFS) that the season dates for the commercial harvest of red snapper in the federal waters of the Gulf of Mexico as set out herein have been modified, and that the Regional Administrator of NMFS requests that the season be modified in Louisiana state waters.

Nothing herein shall preclude the legal harvest of red snapper by legally licensed recreational fishermen. Effective with any closure, no person shall commercially harvest, transport, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell red snapper. Effective with the closure, no person shall possess red snapper in excess of a daily bag limit. Provided however that fish in excess of the daily bag limit which were legally taken prior to the closure may be purchased, possessed, transported, and sold by a licensed wholesale/retail dealer if appropriate records in accordance with R.S. 56:306.5 are properly maintained, and those other than wholesale/retail dealers may purchase such fish in excess of the daily bag limit from wholesale/retail dealers for their own use or for sale by a restaurant as prepared fish.

Bill A. Busbice, Jr.
Chairman

9908#038

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Isles Dernieres Barrier Islands Refuge
(LAC 76:III.321 and 331)

The Wildlife and Fisheries Commission does hereby establish emergency regulations for the management of the Isles Dernieres Barrier Islands Refuge which includes Wine Island, East Island, Trinity Island, Whiskey Island, and Raccoon Island. Formerly, three of these islands, i.e., Wine, Whiskey, and Raccoon Islands, were included within the Terrebonne Barrier Islands Refuge and were regulated under provisions of LAC 76:III.321. By promulgation of this declaration of emergency, the Terrebonne Barrier Islands Refuge regulations found at LAC 76:III.321 are hereby repealed.

A declaration of emergency is necessary to regulate public access to the Isles Dernieres Barrier Islands Refuge in order to ensure that those members of the public utilizing the public use area on Trinity Island enjoy a clean and healthful environment and in order to minimize contact with the numerous species of colonial seabirds that utilize the islands as nesting habitat in the spring and summer months. This declaration of emergency will become effective on September 2, 1999 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule.

Title 76

WILDLIFE AND FISHERIES

Part III. State Game and Fish Preserves and Sanctuaries

Chapter 3. Particular Game and Fish Preserves and Commission

§321. Terrebonne Barrier Islands Refuge

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(18), R.S. 56:761 and R.S. 56:785.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 19:910 (July 1993), repealed LR 25:

§331. Isles Dernieres Barrier Islands Refuge

A. Regulations for Isles Dernieres Barrier Islands Refuge

1. Regulations for Wine Island, East Island, Whiskey Island, and Raccoon Island

a. Public access by any means to the exposed land areas, wetlands and interior waterways of these islands is prohibited. Requests to access exposed land areas, wetlands and interior waterways shall be considered on a case-by-case basis and may be permitted by the Secretary or his designee in the interest of conducting research on fauna and flora, of advancing educational pursuits related to barrier islands, or of planning and implementing island restoration projects.

b. Disturbing, injuring, collecting, or attempting to disturb, injure, or collect any flora, fauna, or other property is prohibited, unless expressly permitted in writing by the Secretary or his designee for the uses provided for in Paragraph 1.a. above.

c. Boat traffic is allowed adjacent to the islands in the open waters of the Gulf and bays; however, boat traffic is prohibited in waterways extending into the interior of the islands or within any land-locked open waters or wetlands of the islands.

d. Fishing from boats along the shore and wade fishing in the surf areas of the islands is allowed.

e. Littering on the islands or in Louisiana waters or wetlands is prohibited.

f. Proposals to conduct oil and gas activities, including seismic exploration, shall be considered on a case-by-case basis and may be permitted by the Secretary or his designee, consistent with provisions of the Act of Donation executed by the Louisiana Land and Exploration Company on July 24, 1997.

2. Regulations for Trinity Island

a. Public access is allowed in a designated public use area. An area approximately 3,000 linear feet by 500 linear feet is designated as a public use area, the boundaries of which will be marked and maintained by the Department. The designated public use area shall extend westward from the western boundary of the servitude area reserved by Louisiana Land and Exploration Company in the Act of Donation a distance of approximately 3,000 linear feet and northward from the southern shoreline within this area by a distance of approximately 500 linear feet. Public recreation such as bird-watching, picnicking, fishing and overnight camping is allowed in this area. Travel on or across this area shall be limited to foot or bicycle traffic only. No use of all-terrain vehicles or other vehicles powered by internal combustion engines or electric motors shall be allowed.

b. Public access to all exposed land areas of Trinity Island, other than the public use area, is prohibited. Requests to access these exposed land areas shall be considered on a case-by-case basis and may be permitted by the Secretary or his designee in the interest of conducting research on fauna and flora, of advancing educational pursuits related to barrier islands or of planning and implementing island restoration projects.

c. Disturbing, injuring, collecting, or attempting to disturb, injure, or collect any flora, fauna, or other property is prohibited, unless expressly permitted in writing by the Secretary or his designee for the uses provided for in Paragraph 2.b. above.

d. Any member of the public utilizing the designated public use area shall be required to have a portable waste disposal container to collect all human wastes and to remove same upon leaving the island. Discharge of human wastes, including that within the disposal container, onto the island or into Louisiana waters or wetlands is prohibited.

e. Littering on the island or in Louisiana waters or wetlands is prohibited.

f. Carrying, possessing, or discharging firearms, fireworks, or explosives in the designated public use area is prohibited.

g. Boat traffic is allowed adjacent to the island in open waters of the Gulf and bays and within the man-made canal commonly known as California Canal for its entire length to its terminus at the bulkhead on the western end of the canal. No boat traffic is allowed in other man-made or

natural waterways extending into the interior of the island or in any land-locked open waters or wetlands of the island.

h. Fishing from boats or wade fishing in the surf areas of the island is allowed.

i. Houseboats may be moored in designated areas along the California Canal. An annual permit shall be required to moor a houseboat in the canal. The required permit may be obtained from the Department of Wildlife and Fisheries New Iberia Office.

j. Proposals to conduct oil and gas activities, including seismic exploration, shall be considered on a case-by-case basis and may be permitted by the Secretary or his designee, consistent with provisions of the Act of Donation executed by the Louisiana Land and Exploration Company on July 24, 1997.

B. Violation of any provision of these regulations shall be considered a Class Two Violation, as described in R.S. 56:115(D), 56:764, and 56:787.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(18), R.S. 56:109, and R.S. 56:781 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:

Bill A. Busbice, Jr.
Chairman

9908#031

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Large Coastal Shark 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 rule LAC 76:VII.357.A.12.b which allows the Secretary to declare a closed season when he is informed that the commercial large coastal shark seasonal quota for that species group and fishery has been met in the Gulf of Mexico, and that such closure order shall close the season until the date projected for the re-opening of that fishery in the adjacent Federal waters, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Effective 11:30 p.m., July 28, 1999, the commercial fishery for large coastal sharks in Louisiana waters, as described in LAC 76:VII.357.A.1.b (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, bignose shark, blacktip shark, bull shark, Caribbean reef shark, dusky shark, Galapagos shark, lemon shark, narrowtooth shark, night shark, sandbar shark, silky shark, spinner shark and tiger shark) will close and remain closed through December 31, 1999. Nothing herein shall preclude the legal harvest of large coastal sharks by legally licensed recreational fishermen during the open season for recreational harvest. Effective with this closure, no person

shall commercially harvest, purchase, exchange, barter, trade, sell or attempt to purchase, exchange, barter, trade or sell large coastal sharks or fins thereof. Also effective with the closure, no person shall possess large coastal sharks in excess of a daily bag limit, which may only be in possession during the open recreational season as described above. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing large coastal sharks taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5.

The Secretary has been notified by the National Marine Fisheries Service that the second semiannual subquota for large coastal sharks will be reached on or before July 28, 1999 and that the Federal season closure is necessary to comply with a court order.

James H. Jenkins, Jr.
Secretary

9908#012

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Season—1999-2000

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 967, and under the authority of R.S. 56:433 and R.S. 56:435.1 notice is hereby given that the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declare:

1. the Louisiana Public Oyster Seed Grounds, Hackberry Bay and Bay Gardene Oyster Seed Reservation not currently under lease will open one-half hour before sunrise September 8, 1999;

2. the Sister Lake Oyster Seed Reservation will be open for 10 days from September 8 to September 17, 1999 and will reopen one-half hour before sunrise October 1, 1999 and close one-half hour after sunset May 15, 2000;

3. the Bay Junop Oyster Seed Reservation will remain closed for the 1999/2000 oyster season;

4. a designated sacking only area east of the Mississippi River will open one-half hour before sunrise on September 8, 1999. The sacking only area of the public grounds is generally Lake Fortuna and Lake Machias to a line from Mozambique Pt. to Pt. Gardner to Grace Pt. at the Mississippi River Gulf Outlet;

5. the Secretary of the Department of Wildlife and Fisheries is authorized to take emergency action if necessary, to close areas if oyster mortalities are occurring or to delay the season or 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;

6. the Secretary is authorized to take emergency action to reopen areas previously closed if the threat to the resource subsides;

7. the Calcasieu and Sabine Lake tonging areas will open one-half hour before sunrise on October 16, 1999 and remain open until one-half hour after sunset on April 30, 2000;

8. notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action.

Bill A. Busbice, Jr.
Chairman

9908#037

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimp Season Closure—Zone 1

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 1999 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 1999 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the Secretary hereby declares:

That the 1999 Spring Inshore Shrimp Season shall be closed in most of Zone 1, that portion of Louisiana's inshore waters from the Mississippi State line to the eastern shore of South Pass of the Mississippi River, as described in R.S. 56:495(A), at 6:00 a.m., Monday, July 19, 1999. Small white shrimp have begun to show up in department samples in Zone 1, and the Secretary has determined that these portions of Zone 1 should be closed to protect these immigrating white shrimp.

The only portion of Zone 1 which shall remain open are the open waters of Breton and Chandeleur Sounds as described in the menhaden rule (LAC 76:VII.307.D), which shall remain open to shrimping until further notice.

James H. Jenkins, Jr.
Secretary

9908#006

Rules

RULE

Department of Economic Development Real Estate Appraisers Board of Certification

Real Estate Appraisers
(LAC 46:LXVII.10101, 10301-10317,
10401-10425, 10501-10507)

Under the authority of the Louisiana Real Estate Appraisers Certification Law, R.S. 37:3395, and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Real Estate Appraisers State Board of Certification has repealed LAC 46:LXVII.Real Estate.Subpart 2.Appraisers, Chapter 101, Authority; Chapter 103, Certification; and Chapter 105, Investigations and Adjudicatory Proceedings, in its entirety, and promulgated rules and regulations which will administer the state real estate appraiser certification program in accordance with current federal guidelines.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate Subpart 2. Appraisers

Chapter 101. Authority

§10101. Adoption

A. The rules and regulations of the Louisiana Real Estate Appraisers State Board of Certification contained herein have been adopted pursuant to and in compliance with R.S. 37:3391 et seq. and any violation of these rules or regulations shall be sufficient cause for any disciplinary action permitted by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1425 (August 1999).

Chapter 103. Certification

§10301. Applications

A. Applications for examination must be submitted on forms prescribed by the board and must be notarized and accompanied by the prescribed fees specified in R.S. 37:3407.

B. An examination authorization will be issued by the board on receipt of a properly completed application.

C. When an applicant has made a false statement of material fact on an application for certification, or in any document submitted in connection with the application process, such false statement may in itself be grounds for refusal of a certificate.

D. A person who has applied for certification and has been denied by the board for having made a false statement of material fact on an application for certification, or for having submitted an appraisal report for experience credit which has been altered in any way or which contains false

information, shall not be considered by the board for certification for a period of two years from the date the application was denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1425 (August 1999).

§10303. Examination

A. Any applicant who fails to pass his initial examination may reapply to take a subsequent examination, provided he remits a new examination processing fee within 90 days of his last test date and obtains a new examination authorization. After 90 days the board's files shall be cleared and remittance of all prescribed fees and a new application shall be required. The board, at its discretion, may extend the 90 day retake period upon showing that factors beyond the control of the applicant warrants such an extension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1425 (August 1999).

§10305. Fees

A. Except as otherwise provided in the rules and regulations, all fees submitted to the board are non-refundable.

B. The application fee for certification shall cover a period of two calendar years and shall not be prorated.

C. The initial education provider fee shall cover a period of one calendar year and shall not be prorated.

D. Payment of any fee with a check which is returned by a financial institution wherein the reason for not paying the check is not the fault of the financial institution shall be grounds for the cancellation of the transaction for which the fee was submitted and/or the suspension or revocation of a certified appraisers certificate or a certification as a continuing education provider.

E. Persons issuing checks which are returned by financial institutions will be notified of the return of the check by certified mail to the address registered by that person with the board. Within ten days from the mailing of the notification, the person issuing the check will remit a certified check, cashier's check or money order payable to the Louisiana Real Estate Appraisers State Board of Certification in the amount of the returned check.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1425 (August 1999).

§10307. Basic Education Requirement for Certification

A. The board shall prescribe and define the subjects related to real property appraisal that will satisfy the educational requirements for qualifying and continuing education, including:

1. specific appraisal subjects to be mandatory requirements for residential and general appraiser

certification, including the minimum number of hours that must be completed in each subject; and

2. appraisal subjects to be designated as "electives", including the maximum number of hours of elective study acceptable toward residential and general appraiser certification.

B. Any applicant completing appraisal courses through education providers not certified by the board must apply for and receive approval for such course work being used for certification or renewal. The applicant must provide proof of:

1. course completion;
2. number of classroom hours;
3. examination requirement;
4. detailed course content;
5. any additional information on the subject matter deemed necessary by the board for the rendering of an informed decision on the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1425 (August 1999).

§10309. Experience Credit/Review Procedure

A. The chairman and members of the Experience Review Committee shall be appointed by the chairman of the Louisiana Real Estate Appraisers State Board of Certification.

B. In accordance with R.S. 1950, Title 50, Chapter 51, Louisiana Real Estate Appraisers Certification Law, it is the responsibility of the board to verify that applicants for residential and general certification have met the experience requirement prior to issuance of an examination authorization. The committee shall have the authority to request and review copies of any appraisal reports listed in the application for experience credit.

C. Applicants shall list their appraisal experience on the application provided by the board. Computer generated forms will be accepted, provided that all necessary data is submitted in a format similar to that published by the board.

D. The board shall consider for experience credit toward appraiser certification only those real property appraisals which include, but are not limited to, the appraisal of real property consistent with the Uniform Standards of Professional Appraisal Practice.

E. Applications for experience credit shall only be accepted from individuals who have satisfied the education requirement for the type of certification for which they have applied.

F. The board may require an applicant to obtain additional educational training consisting of not less than 15 or more than 30 classroom hours of course work.

G. Appraisals performed by an applicant for an owner or instructor of a school certified by the Louisiana Real Estate Commission within one year from the date the applicant completed prequalifying education course work at the school shall not be used to satisfy any requirement for experience credit for certification as a residential or general real estate appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1426 (August 1999).

§10311. Residential Certification Minimum Experience

A. A minimum of 250 credit points is required for residential certification. Regardless of the number of experience points earned in any given year, the maximum allowable credit that can be applied toward the experience requirement is 125 points. There is no minimum point requirement. For example:

1997	140 points	=	1.00	experience year
1996	120 points	=	0.96	experience year
1995	100 points	=	0.80	experience year
	360 points	=	2.76	experience years

1. When an appraisal report is signed by more than one person, credit for said assignment must be divided equally among all signatories. For the purpose of granting credit, a person signing in the capacity of a Review or Supervisory Appraiser is not considered as a co-signer on the report, provided that his role as such is clearly indicated in the report.

2. If the person applying for experience credit was unable to sign the report but is mentioned in the certification as having provided significant professional assistance, a proportional amount of credit based on the number of contributors to the report can be requested.

3. Credit will not be granted if professional assistance was not disclosed.

B. Only appraisals of single-family, one to four unit residential property, or vacant sites suitable for single-family or farm/timber acreage which included the valuation of a single-family dwelling shall be considered for residential experience.

C. A minimum of two years (24 months) of experience shall be required for residential certification.

D. Residential appraisal points shall be awarded as follows.

1. one unit dwelling (house, townhouse, condominium)	1 point
2. two to four unit dwelling (apartment, duplex, condominium)	2 points
3. residential lot (1-4 family)	½ point
4. residential subdivision sites (not to exceed five points per subdivision)	½ point
5. farm or timber acreage suitable for a house site less than 10 acres 10 to 100 acres over 100 acres	1 point 2 points 3 points
6. rural residence - one unit primary dwelling, 10 acres or less	1 point
7. ranchette - part time rural use, 10 to 25 acres, with main dwelling and outbuildings, such as additional residence, barns, and/or other outbuildings	3 points
8. all other unusual structures or acreage, larger or more complex than typical properties described herein	Submitted to board for determination (½ to 5 points)

9. instruction of an approved residential course consisting of at least 20 classroom hours (not to exceed 16 points per year)	4 points
10. residential appraisal textbook authorship (not to exceed 20 points per year)	Submitted to board for determination
11. residential journal articles in journals of approved national appraisal organizations (not to exceed 20 points per year)	10 points
NOTE: The Cumulative Points For Items 9, 10, And 11 Shall Not Exceed 25% Of The Total Points For Residential Certification.	
12. review of appraisals shall be worth 20% of the points awarded for the appraisal (not to exceed 20 points per year)	

E. Applications for experience credit must be submitted on forms prescribed by the board and must be notarized and accompanied by the prescribed fees specified in R.S. 37:3407.

F. Verification of experience may include any or all of the following:

1. client verification of appraisal reports for which the applicant has requested experience credit;

2. submission of selected reports to the board upon request to determine compliance with the Uniform Standards of Professional Appraisal Practice (USPAP);

3. field inspection of all reports identified by the applicant at the applicant's office during normal business hours;

4. requiring an applicant to personally appear before the board, or provide additional information deemed necessary by the board to make an informed decision on an application for certification;

5. at least 125 experience credit points from complete appraisals reported in self contained or summary appraisal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1426 (August 1999).

§10313. General Certification Experience

A. A minimum of 300 credit points is required for general certification. Regardless of the number experience points earned in any given year, the maximum allowable credit that can be applied toward the experience requirement is 100 points. There is no minimum point requirement. For example:

1996	103 points	=	1.00	experience year
1995	145 points	=	1.00	experience year
1994	53 points	=	.53	experience year
1993	60 points	=	.60	experience year
	361 points	=	3.13	experience years

1. When an appraisal report is signed by more than one person, credit for said assignment must be divided equally among all signatories. For the purpose of granting credit, a person signing in the capacity of a Review or supervisory Appraiser is not considered as a co-signer on the report, provided that his role as such is clearly indicated in the report.

2. If the person applying for experience credit was unable to sign the report but is mentioned in the certification as having provided significant professional assistance, a

proportional amount of credit based on the number of contributors to the report can be requested.

3. Credit will not be granted if professional assistance was not disclosed.

B. A minimum of three years (36 months) of experience shall be required for general certification.

C. No more than 100 residential experience points shall be accepted for credit toward general certification.

1. A certified residential appraiser applying for general certification shall be granted the maximum allowable credit of 100 residential experience credit points upon request.

D. General appraiser points shall be awarded as follows:

1. apartments	
5 - 20 units	4 points
21 - 100 units	8 points
over 100 units	10 points
2. hotels/motels	
50 or fewer units	6 points
51 - 150 units	8 points
over 150 units	10 points
3. meeting/conference/auditorium	
20,000 square feet or less	4 points
over 20,000 square feet	6 points
4. industrial/warehouse buildings	
20,000 square feet or less	4 points
over 20,000 square feet	8 points
over 100,000 square feet (multiple tenants)	10 points
5. office buildings	
10,000 square feet or less	4 points
over 10,000 square feet	8 points
over 100,000 square feet (multiple tenants)	10 points
6. condominium (must include income approach)	
5 - 30 units	6 points
over 30 units	10 points
7. retail buildings	
10,000 square feet or less	6 points
over 10,000 square feet (single tenant)	8 points
over 50,000 square feet (multiple tenants)	10 points
8. acreage of non-residential land for commercial or multiple family use	
100 acres or less	3 points
over 100 acres (direct sales analysis only)	6 points
over 100 acres (including income approach)	8 points
9. timber/farm acreage for commercial or multiple family use	
100 - 200 acres	3 points
over 200 acres (direct sales analysis only)	6 points
over 200 acres (including income approach to value)	8 points
10. all other unusual structures which are much larger or more complex than the typical properties described herein items (1) - (9)	Submitted to board for determination
11. pasture or grazing enterprises	
25 - 50 acres	1 Point

51 - 100 acres	2 Points
101 - 500 acres	3 Points
501 - 2,000 acres	6 Points
over 2,000 acres	8 Points
12. row crop enterprises	
25 - 50 acres	2 Points
51 - 100 acres	3 Points
101 - 500 acres	4 Points
501 - 2,000 acres	6 Points
over 2,000 acres	10 Points
13. orchard/vineyard, plant nursery enterprises	
50 acres or less	2 Points
51 - 100 acres	4 Points
101 - 500 acres	8 Points
over 500 acres	10 Points
14. aquaculture enterprises	
50 acres or less	2 Points
51 - 100 acres	4 Points
101 - 500 acres	8 Points
over 500 acres	10 Points
15. truck farm enterprises	
50 acres or less	2 Points
51 - 100 acres	4 Points
101 - 500 acres	6 Points
over 500 acres	8 Points
16. dairy enterprises	
50 or less cow milking herd	4 Points
51 - 100 cow milking herd	6 Points
over 100 cow milking herd	8 Points
17. diversified agricultural operations of over 500 acres involving two or more of the above enterprises, assuming multiple disciplines are exhibited in the report	10 Points
18. timberland appraisals	
40 - 100 acres	2 Points
100 - 500 acres	3 Points
500 - 2,000 acres	5 Points
2,000 - 10,000 acres	7 Points
over 10,000 acres	Submitted to board for determination
19. specialized agricultural properties	Submitted to board for determination
Note: No more than 40% of the cumulative points may be earned from any one category (items 1-19). The applicant may request a waiver of this requirement based on his unique depth of experience in a single area.	
20. Review of appraisals shall be worth 20% of the points awarded for the appraisal (not to exceed 20 points per year).	
21. instruction of an approved general course consisting of at least 20 classroom hours (not to exceed 20 points per year)	10 points
22. appraisal textbook authorship in general appraisal topics (not to exceed 20 points per year)	Submitted to board for determination
23. general field journal articles in journal of an approved national appraisal organization (not to exceed 20 points per year)	10 points

NOTE: The cumulative points for Items 21, 22, and 23 shall not exceed 25% of the total points for general certification.

E. At least 150 experience credit points must come from complete appraisals reported in self contained or summary appraisal reports. The reports must include a direct sales approach, cost data approach, and income data approach.

F. Verification of experience may include any or all of the following:

1. client verification of appraisal reports for which the applicant has requested experience credit;

2. submission of selected reports to the board upon request to determine compliance with the Uniform Standards of Professional Appraisal Practice;

3. field inspection of all reports identified by the applicant at the applicant's office during normal business hours;

4. requiring an applicant to personally appear before the board, or provide additional information deemed necessary by the board to make an informed decision on an application for certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1427 (August 1999).

§10315. Appraisal Review Requirements

A. In reviewing an appraisal, an appraiser must observe the following specific guidelines:

1. identify the report being reviewed, the real estate and real property interest being appraised, the effective date of the opinion in the report being reviewed, and the date of the review;

2. identify the scope of the review process to be conducted;

3. form an opinion as to the adequacy and relevance of the data and the propriety of any adjustments to the data;

4. form an opinion as to the appropriateness of the appraisal methods and techniques used to develop the reasons for any disagreements;

5. form an opinion as to the correctness and appropriateness of the analyses, opinions, and/or conclusions in the report being reviewed, and develop the reasons for any disagreement;

6. state in the letter of transmittal whether or not exterior or interior building inspections were made and, if so, when and by whom;

7. the review must be in writing and include items 1-6.

B. In reporting the results of an appraisal review, and appraiser must:

1. disclose the nature, extent, and detail of the review process undertaken;

2. disclose the information that must be considered in Section 10315.A.1 and 2;

3. set forth the opinions, reasons, and conclusions required in Section 10315.A.3, 4, and 5;

4. include a signed certification.

C. In reviewing an appraisal and reporting the results of that review, an appraiser must separate the review function from any other function.

D. No more than 20 points shall be awarded as experience credit in any one year for review of appraisals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1428 (August 1999).

§10317. Co-signed Reports, Reviews, Articles and Textbooks

A. The prorata number of points of each co-signed report, review, article and textbook shall be awarded to each signer of the report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999).

Chapter 104. Education Providers/Course Approval **§10401. Qualifying and Continuing Education Course Providers**

A. Educational courses offered by the following providers will be considered by the board:

1. appraisal organizations;
2. colleges and universities;
3. schools certified by the Louisiana Real Estate Commission;
4. federal or state entities;
5. proprietary schools registered with the Louisiana Proprietary School Commission, a division of the Louisiana State Department of Education; and,
6. other educational providers approved by the board.

B. Education providers must apply directly to the board for qualifying and continuing education course approval. Application forms will be provided by the board. Information to be submitted for each course offering shall include:

1. course content;
2. program structuring;
3. course completion standards;
4. instructor qualifications;
5. minimum number of classroom hours;
6. textbook and course materials;
7. any additional information as requested by the board.

C. Any request from an approved education provider for an additional course must be submitted to the board and approval granted by the board at least 30 days prior to the course presentation.

D. Upon approval by the board, courses for each provider will be listed on the board's approved course list through December 31 following the date approved. The board may extend such approval for the next renewal period if course materials remain current or are updated as law or rule changes may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999).

§10403. Certification of Education Providers

A. Certification as an education provider shall be granted only to persons who bear a good reputation for honesty, trustworthiness, integrity, and competence to deliver quality instructional services, and only when proof of such qualifications has been presented to the board. The occurrence of any of the following events shall constitute

grounds for refusal to grant a certification as an education provider:

1. the applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or a crime involving moral turpitude in any court of competent jurisdiction;
2. the applicant had made a false statement of material fact on the application;
3. the applicant refuses to agree to monitoring of courses by the board or its authorized representatives.

B. Upon approval by the board, education providers will be certified for a period of one year with the certification expiring annually on December 31.

C. Certificates issued to education providers will be issued in the legal name of the applicant.

D. Education providers shall:

1. submit monthly schedules and attendance reports to the board as required;
2. insure that all course offerings satisfy the minimum standards of approval endorsed by the Appraisal Qualifications Board of The Appraisal Foundation as established by the Federal Financial Institutions Examination Council or its successor;
3. insure that course offerings specified by the board satisfy all requirements mandated by the board;
4. maintain the attendance records of each student for a period of five years following the date the student completed a course offered by the provider;
5. provide each student with a written cost and refund policy regarding the course offering;
6. insure that all advertisements published or distributed include the name of the provider as registered with the board;
7. report any change in business address or telephone number to the board in writing within 10 days of the date of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999).

§10405. Course Requirements

A. The board may require approved providers to follow model curriculum guidelines to assure comprehensive coverage of appraisal topics which meet the educational requirements for residential and general appraiser certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999).

§10407. Qualifying Education

A. Courses accepted for qualifying education credit toward residential or general appraiser certification must include subjects related to real estate appraisal as specified in the following areas.

1. Residential Appraiser Certification
 - a. Influences on real estate value.
 - b. Legal consideration in appraisal.
 - c. Types of value.
 - d. Economic principles.

- e. Real estate market and analysis.
 - f. Valuation process.
 - g. Property description.
 - h. Highest and best use analysis.
 - i. Appraisal math and statistics.
 - j. Sales comparison approach.
 - k. Site value.
 - l. Cost approach.
 - m. Income approach.
 - n. Valuation of partial interests.
 - o. Appraisal standards and ethics.
 - p. Narrative report writing.
2. General Appraiser Certification
- a. Influences on real estate value.
 - b. Legal considerations in appraisals.
 - c. Types of value.
 - d. Economic principles.
 - e. Real estate markets and analysis.
 - f. Valuation process.
 - g. Property description.
 - h. Highest and best use analysis.
 - i. Appraisal math and statistics.
 - j. Sales comparison approach.
 - k. Site value.
 - l. Cost approach.
 - m. Income approach.
 - n. Valuation of partial interests.
 - o. Appraisal standards and ethics.
 - p. Narrative report writing.

B. Credit toward the qualifying educational requirement for residential and general appraiser certification will only be granted to those courses which include at least 15 hours of instruction, require successful completion of a final examination and cover specific subjects as defined by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999).

§10409. Continuing Education

A. Courses accepted for credit toward the continuing education requirement for residential and general certified appraisers may include, but are not limited to, the following topics:

- 1. ad valorem taxation;
- 2. arbitration;
- 3. business courses related to the practice of real estate appraisal;
- 4. development cost estimating;
- 5. ethics and standards of professional practice;
- 6. land use planning, zoning, and taxation;
- 7. management, leasing, brokerage, and timesharing;
- 8. property development;
- 9. real estate appraisal;
- 10. real estate financing and investment;
- 11. real estate law;
- 12. real estate litigation;
- 13. real estate appraisal related computer applications;
- 14. real estate appraisal securities and syndication;
- 15. real property exchange;

16. Louisiana Real Estate Appraiser Certification Law and the rules and regulations of the Louisiana Real Estate Appraisers State Board of Certification.

B. Courses of instruction for continuing education for state certified appraisers must consist of at least two instructional hours. A final examination is not required on courses administered for the purpose of continuing education; however, if a final examination is given, proof of passage shall be furnished to students successfully completing the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1430 (August 1999).

§10411. Instructor Qualifications

A. Instructors for qualifying education courses must satisfy at least one of the following qualification requirements:

- 1. a baccalaureate degree in any field and three years of experience directly related to the subject matter to be taught; or
- 2. a masters degree in any field and one year of experience directly related to the subject matter to be taught; or
- 3. a masters or higher degree in a field that is directly related to the subject matter to be taught; or
- 4. five years of real estate appraisal teaching experience directly related to the subject matter to be taught; or
- 5. seven years of real estate appraisal experience directly related to the subject matter to be taught.

B. Instructors for continuing education courses must satisfy at least one of the following qualification requirements:

- 1. three years of experience directly related to the subject matter to be taught; or
- 2. a baccalaureate or higher degree in a field directly related to the subject matter to be taught; or
- 3. three years of experience teaching the subject matter to be taught; or
- 4. a combination of education and experience equivalent to 1, 2, or 3 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1430 (August 1999).

§10413. Classroom Hour Defined

A. Consistent with the requirements of the Appraiser Qualification Board of the Federal Financial Institutions Examination Council, 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 which are considered to be part of the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1430 (August 1999).

§10415. Compliance with Americans With Disabilities Act (ADA)

A. For purposes of meeting the requirements of the Americans With Disabilities Act (ADA), the board may permit an alternative method of course delivery other than the regular classroom method of presentation. Verification of disability of the individual requiring the completion of course work through an alternative delivery method may be required by the board prior to granting such a request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1431 (August 1999).

§10417. Distance Education Courses

A. Distance education courses may be used for qualifying education credit for certification and continuing education after certification provided the courses meet the conditions prescribed by the Appraiser Qualification Board of the Appraisal Foundation regarding the accreditation of the presenter of the course or approval of the course by the American Council on Education's Program on Non-Collegiate Sponsored Instruction or under the Appraiser Qualification Board's Course Approval Program.

B. Any educational course based on the geographical separation of the learner and the instructor (e.g. CD ROM, on-line learning, correspondence courses, video conferencing, etc.) must provide for interaction between the learner and the instructor. Courses designed for both qualifying education credit and continuing education credit must include testing and proof of passage shall be furnished to students successfully completing the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1431 (August 1999).

§10419. Video Presentations in Classroom Instruction

A. Video presentations will be accepted for qualifying and continuing education credit only when used as a training aid by an instructor in a classroom setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1431 (August 1999),

§10421. Combining Appraisal and Real Estate Prelicensing Courses Prohibited

A. Appraisal courses combined with real estate salesperson and/or broker prelicensing courses offered by schools certified by the Louisiana Real Estate Commission and approved by the board as education providers will not be accepted by the board as qualifying education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1431 (August 1999).

§10423. Determination of Credit Hours For Qualifying Education

A. Each course credited toward an individual's educational requirement must represent a progression in which the individual's knowledge is increased. Full credit

will not be granted to an individual for courses completed which are repetitive in nature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1431 (August 1999).

§10425. Final Examination on Additional Education Required by Board

A. A final examination is required on courses administered for the purpose of additional education when directed by the board. Completion of these courses shall be evidenced by a certificate of course completion issued by the education provider. Such courses shall not be used to satisfy the requirement for continuing education in the applicable recertification period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1431 (August 1999).

Chapter 105. Investigations and Adjudicatory Proceedings

§10501. Investigations

A. The board may, upon its own motion, and shall upon the verified complaint in writing of any person, investigate the actions of a certificate holder, or any person who assumes to act as such. Written complaints shall bear the signature of the complainant or that of his legal representative before any action will be taken thereon by the board.

B. Upon documented probable cause the executive director of the board may issue written authorization to investigate apparent violations of the Louisiana Real Estate Appraisers Certification Law and/or the rules and regulations of the board.

C. If during the conduct of an investigation documented probable cause is established indicating that violations of the Louisiana Real Estate Appraisers Certification Law and/or the rules and regulations of the board have been committed by any certificate holder other than the certificate holder against whom the original complaint was made, the additional certificate holders may be added as respondents to the investigation in the absence of any written complaint alleging such violations.

D. Investigations alleging violations of the Louisiana Real Estate Appraisers Certification Law and/or the rules and regulations of the board shall be investigated by the staff of the Louisiana Real Estate Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1431 (August 1999).

§10503. Technical Assistance

A. In any investigation conducted by the staff of the Commission, the chairman of the board may be requested to assign a member of the board to provide technical assistance to the investigator conducting the investigation.

B. When a member of the board has been assigned to provide technical assistance to a Commission investigator, the member shall review the findings and recommendation resulting from the investigation. A written certification of the

review signed by the board member shall be provided to the Commission investigator and appended to the report of investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1431 (August 1999).

§10505. Cooperation

A. Every certificate holder shall cooperate fully with and answer all questions propounded by Commission personnel conducting an investigation for the board.

B. Every certificate holder shall produce any document, book, or record in the certificate holder's possession, or under his control, concerning any matter under investigation by Commission personnel conducting an investigation for the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1432 (August 1999).

§10507. Adjudicatory Proceedings

A. When, as a result of an investigation, it appears that violations of the Louisiana Certified Real Estate Appraisers Certification Law may have been committed by a certificate holder, the violations may be adjudicated through informal or formal adjudicatory proceedings.

B. The complaint may be concluded informally without public hearing on the recommendation of the hearing examiner and the concurrence of the executive director.

1. A preliminary notice of adjudication shall be issued to advise the respondent of the violation or violations alleged and to advise the respondent that the matter can be resolved informally should the respondent desire to admit to committing any act or acts specified and submits a written request that the matter be resolved informally.

2. A hearing officer shall be appointed by the executive director to conduct an informal hearing with the respondent.

3. The informal hearing shall be attended by the case investigator, or in the absence of the case investigator, the chief real examiner, who shall respond to questions concerning the investigation which resulted in the allegations, and the hearing examiner, who shall inform the hearing officer of the administrative, jurisdictional, and other matters relevant to the proceedings. No evidence shall be presented, no witnesses shall be called, and no formal transcript of the proceedings shall be prepared. Statements made during the informal proceedings may not be introduced at any subsequent formal adjudicatory proceedings without the written consent of all parties to the informal hearing.

4. Following an admission by the respondent at the informal hearing that violations were committed as alleged, the hearing officer may enter into a recommended stipulation and consent order to include the imposition of any sanctions authorized by the Louisiana Real Estate Appraisers Certification Law. In the written document, the respondent must stipulate to having committed an act or acts in violation of the Louisiana Real Estate Certification Law or the rules and regulations of the board, accept the sanctions recommended by the hearing officer, and waive any rights to

request a rehearing, reopening, or reconsideration by the board, and the right to judicial appeal of the consent order.

5. If, at the informal hearing, the respondent does not admit to having committed the act or acts specified, does not accept the sanctions recommended by the hearing officer, or does not waive the specified appellate rights, the alleged violations shall be referred to a formal adjudicatory hearing.

6. If the respondent does execute a stipulation and consent order, the executive director shall submit the document to the board at the next regular meeting for approval and authorization for the executive director to execute the Consent Order in the name of the board.

7. The actions of the board relative to all consent orders shall be noted in the minutes of the meeting at which the consent order is approved and authorization is granted to the executive director to execute the order in the name of the board.

8. Any consent order executed as a result of an informal hearing shall be effective on the date approved by the board.

C. All formal public adjudicatory hearings shall be conducted under the auspices of R.S. 37:3409 and Chapter 13 of Title 49 of the Louisiana Revised Statutes.

1. Board members who have provided technical assistance in any matter being adjudicated at formal adjudicatory proceedings shall recuse themselves and not participate in any portion of the proceedings.

2. The order issued by the board pursuant to any formal public adjudicatory proceeding shall become effective on the eleventh day following the date the order is issued by the board and entered into the record at the proceedings.

3. The date of entry is the date the order is issued by the board and entered into the record at the formal adjudicatory proceedings.

4. If a request for rehearing, reopening, or reconsideration of the order of the board is timely filed and denied by the board, the order of the board shall become final on mailing of the notice of the board's final decision on the request.

5. An order of the board shall be subject to rehearing, reopening or reconsideration by the board on receipt of a written request from a respondent. An application for rehearing, reopening or reconsideration must be received at the office of the board within 10 days from the date of entry of the order rendered by the board.

6. The request shall be reviewed by the board attorney for compliance with the Administrative Procedure Act. A finding by the board attorney that the request does not establish grounds for rehearing, reopening or reconsideration shall result in a denial for the request.

7. Proceedings for judicial review of an order issued by the board may be instituted by filing a petition for judicial review in the Nineteenth Judicial District Court in the parish of East Baton Rouge.

8. In the event a request for rehearing, reopening or reconsideration has been filed with the board, the party making the request shall have 30 days from the final decision on the request within which to file a petition for judicial review.

9. If a request for rehearing, reopening or reconsideration is not filed with the Board, the petition for

judicial review must be filed in the Nineteenth Judicial District Court within 30 days after the mailing of the order of the board.

10. The filing of a petition for judicial review by a respondent certificate holder does not itself stay enforcement of an order of the board. A stay of enforcement shall be granted only when directed by the court conducting a judicial review of adjudication.

D. On a finding that a respondent has committed the violations as alleged in any formal or informal adjudicatory proceedings, the board may assess the respondent the administrative costs of the proceedings, as determined by the board. Payment of these costs shall be a condition of satisfying any order issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1432 (August 1999).

Julius C. Willie
Executive Director

9908#020

RULE

Board of Elementary and Secondary Education

Bulletin 741 Louisiana Handbook for School Administrators Adult Education Program (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The proposed amendment revises all policies related to the high school equivalency diploma being issued by the State Department of Education rather than a local high school. The amendment revises the wording to provide adult education as stipulated in the Workforce Investment Act of 1998.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, II; R.S. 17:22 (2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 24:1085 (June 1998), LR 25:1433 (August 1999).

Bulletin 741—Louisiana Handbook for School Administrators

1.124.00 The Adult Education program shall be administered by the State Department of Education (SDE) and operated by eligible entities as stipulated in Title II of the Workforce Investment Act. The State Department of Education shall certify adult education sites of instruction

using procedures as approved by the Board of Elementary and Secondary Education.

1.124.01 State or federally funded entities operating an adult education program or activity shall not exclude exceptional persons.

Requirements for Taking the General Educational Development (GED) Test

1.124.03A Any State-approved adult education site of instruction may recommend an individual to take the General Educational Development (GED) Test.

Issuance of Equivalency Diplomas

1.124.11 A high school equivalency diploma will be issued from the Louisiana State Department of Education after the student has successfully completed the test of General Educational Development (GED).

1.124.12 Repealed.

1.124.13 Repealed.

1.124.14 A Louisiana resident who successfully completes the General Educational Development (GED) Test at an official out-of-state GED testing center may be entitled to receive an equivalency diploma provided that an official copy of the GED Test results are submitted for review to the Division of Adult Education and Training in the Louisiana Department of Education, and provided the student meets all other qualifications to receive an equivalency diploma. Veterans do not need to submit qualifying scores.

1.124.18 Public high school equivalency diplomas shall be signed by the State Superintendent of Education and the President of the State Board of Elementary and Secondary Education.

Weegie Peabody
Executive Director

9908#049

RULE

Board of Elementary and Secondary Education

Bulletin 741 Louisiana Handbook for School Administrators Test Security Policy/Erasure Analysis Procedures (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to the Addendum in Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November, 1975). The revised Test Security Policy provides school districts with acceptable practices for administering and using state tests. The Erasure Analysis Policy outlines the procedures for conducting erasure analysis, and will be placed in the Addendum immediately following the Test Security Policy.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, II; R.S. 17:22 (2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November, 1975), amended LR 23:560 (May 1997), LR 23:709 (June 1997), LR 23:1644 (December 1997), LR 24:1495 (June 1998), LR 24:1085 (August 1998), LR 24:1896 (October 1998), LR 25:1433 (August 1999).

Test Security Policy

The Board of Elementary and Secondary Education holds the test security policy to be of utmost importance and deems any violation of test security to be serious.

Test Security

1. Tests administered by or through the State Board of Elementary and Secondary Education shall include, but not be limited to:

- a. Graduation Exit Examination (GEE);
- b. all criterion-referenced tests (CRTs) and norm-referenced tests (NRTs).

2. For purposes of this policy, school districts shall include local education agencies; Special School District Number 1 schools; approved special schools such as the Louisiana School for the Visually Impaired and Louisiana School for the Deaf; laboratory schools, charter schools, Louisiana School for Math, Science and the Arts, and participating nonpublic/other schools which utilize tests administered through the State Board of Elementary and Secondary Education or the Louisiana Department of Education.

It shall be a violation of test security for any person to do any of the following:

- a. administer tests in a manner that is inconsistent with the administrative instructions provided by the Louisiana Department of Education (LDE) which would give examinees an unfair advantage or disadvantage;
- b. give examinees access to test questions prior to testing; no one is to have the opportunity to examine any test item at any time except the student during the test;
- c. copy, reproduce, or use in any manner inconsistent with test regulations all or part of any secure test booklet or answer document;
- d. coach examinees in any manner during testing or alter or interfere with examinees' responses in any manner;
- e. provide answers to students in any manner during the test, including provision of cues, clues, hints, and/or actual answers in any form-written, printed, verbal or nonverbal;
- f. administer published parallel or current forms of a test (e.g., Forms K, L, and M of The Iowa Tests) as a practice test; such parallel forms of a test must be kept in a predetermined, locked, secure area at the district office;
- g. fail to follow security regulations for distribution and return of secure test booklets and answer documents as well as overages as directed; or fail to account for and secure test materials before, during, or after testing; all secure materials must be kept in locked storage at both the district and school levels; secure materials must never be left in open areas or unattended;
- h. conduct testing in environments that differ from the usual classroom environment without prior written permission from the Louisiana Department of Education, Division of Student Standards and Assessments;

i. fail to report any testing irregularities to the District Test Coordinator (a "testing irregularity" is any incident in test handling or administration that leads to a question regarding the security of the test or the accuracy of the test data);

j. participate in, direct, aid, counsel, assist in, encourage, or fail to report any of the acts prohibited in this section.

3. Each school district as described in this policy shall develop and adopt a district test security policy that is in compliance with the state test security policy. A "Statement of Assurance" regarding the LEA test security policy must be submitted annually to the Louisiana Department of Education, Division of Student Standards and Assessments. This statement must include the name of the individual designated by the district superintendent or institution to procure test materials. The policy shall provide:

a. for the security of the test materials during testing, including test booklets, answer documents, test administrators' manuals, observational answers, video tapes, and completed observation sheets;

b. for the storage of all test materials except test administrators' manuals in a predetermined, secure, locked area before, during, and after testing;

c. a description and record of professional development on test security and test administration provided for all individuals with access to test materials (access to test materials by school personnel means *handling* the materials but does not include reviewing tests or analyzing test items, which are prohibited);

d. a list of personnel authorized to have access to the locked, secure storage area;

e. a procedure for investigating any testing irregularities, especially erasure analysis.

4. Test materials, including all test booklets and answer documents containing secure test questions, shall be kept secure and accounted for in accordance with the procedure specified in the examination program administration manuals and other communications provided by the Louisiana Department of Education. Secure test materials include test administrators' manuals, test booklets, and answer documents.

The manual procedures shall include, but are not limited to, the following.

a. All test booklets and answer documents shall be kept in a predetermined, secure, locked storage area prior to and after administration of any test; test administrators are to be given access to the tests only on the day the test is to be administered, and the tests are to be retrieved immediately after testing is completed for the day and stored in a locked, secure location each day of testing.

b. All test booklets and answer documents shall be accounted for and written documentation kept by test administrators and proctors for each point at which test materials are distributed and returned.

c. Any discrepancies noted in the number of serial numbers of test booklets and answer documents received from contractors shall be reported to the Director, Division of Student Standards and Assessments (LDE) by the designated institutional or school district personnel prior to the administration of the test.

d. In the event the test booklets or answer documents are determined to be missing while in the possession of the institution or school district, the designated institutional or school district personnel shall immediately notify by telephone the Director, Division of Student Standards and Assessments (LDE). The designated institutional or school District personnel shall investigate the cause of the discrepancy and provide the Louisiana Department of Education with a report of the investigation within thirty (30) calendar days of the initiation of the investigation. At a minimum, the report shall include the nature of the situation, the time and place of occurrence, and the names of the persons involved in or witnesses to the occurrence. Officials from the Louisiana Department of Education are authorized to conduct additional investigations.

5. Only trained personnel shall be allowed to have access to or administer any standardized tests.

6. Each district superintendent or institution shall annually designate one individual in the district or institution who is authorized to procure test materials that are utilized in testing programs administered by or through the State Board of Elementary and Secondary Education or the Louisiana Department of Education. The name of the individual designated shall be provided, in writing, to the Director, Division of Student Standards and Assessments (LDE), and included on the "Statement of Assurance."

7. Testing shall be conducted in class-sized groups. Bulletin 741 (2.038.01-02) states that K-3 classroom enrollment should be no more than 26 students, and in grades 4-12, no more than 33, "except in certain activity types of classes in which the teaching approach and the materials and equipment are appropriate for large groups." For grades K-8, the maximum class size for Health and Physical Education classes may be no more than 40. Class size for exceptional students is generally smaller (Bulletin 741, 2.038.05). Permission for testing in environments that differ from the usual classroom environment must be obtained in writing from the Louisiana Department of Education, Division of Student Standards and Assessments at least thirty (30) days prior to testing. If testing outside the usual classroom environment is approved by the Division of Student Standards and Assessments, the LEA must provide at least one proctor for every 30 students.

8. The State Superintendent of Education may disallow test results which may have been achieved in a manner which is violative of test security.

9. The Louisiana Department of Education shall establish procedures to identify:

- a. improbable achievement of test score gains in consecutive years;
- b. situations in which collaboration between or among individuals may occur during the testing process;
- c. a verification of the number of all tests distributed and the number of tests returned;
- d. excessive erasures for multiple-choice tests;
- e. any violation to written composition or open-ended responses that involves plagiarism;
- f. any other situation which may result in invalidation of test results.

10. In cases where test results are not accepted because of breach of test security or action by the Louisiana

Department of Education, any programmatic, evaluative, or graduation criteria dependent upon the data shall be deemed not to have been met.

11. Individuals shall adhere to all procedures specified in all operational manuals that govern mandated testing programs.

12. Any individual(s) who knowingly engages in any activity during testing which results in invalidation of scores derived from the Graduation Exit Examination shall forfeit the test results and will be allowed to retake the test at the next test administration; beginning in 2000, any individual(s) who knowingly engages in any activity during testing which results in invalidation of scores derived from LEAP for the 21st Century shall forfeit the test results and will be allowed to retake the test at the next test administration;

13. Anyone known to be involved in the presentation of forged, counterfeit, or altered identification for the purposes of obtaining admission to a test administration site for any test administered by or through the State Board of Elementary and Secondary Education or the Louisiana Department of Education shall have breached test security. Any individual(s) who knowingly causes or allows the presentation of forged, counterfeit, or altered identification for the purpose of obtaining admission to any test administration site shall forfeit all test scores and will be allowed to retake the test at the next test administration.

14. Any teachers or other school personnel who breach test security or allow breaches in test security shall be disciplined in accordance with the provisions of R.S. 17:416 et seq., R.S. 17:441 et seq., policy and regulations adopted by the Board of Elementary and Secondary Education, and any and all laws that may be enacted by the Louisiana Legislature.

Louisiana Educational Assessment Program Erasure Analysis Procedures

In order to investigate erasures to student answer documents for the multiple-choice portions of the state criterion-referenced and norm-referenced testing programs, the following procedures have been developed.

1. The scoring contractor will scan every answer document for wrong-to-right erasures, and the state average and standard deviation will be computed for each subject at each grade level.

2. Classrooms of six or more students that exceed the state average by more than four standard deviations will be identified for further investigation.

3. The scoring contractor will produce *School/Class Erasure Analysis Reports* for those districts that have classrooms exceeding the four standard deviation criterion. This is a classroom-level report, aggregated to the district level.

4. For each classroom identified using the four standard deviation criterion, the LDE will receive from the scoring contractor:

School/Class Erasure Analysis Report (three copies, sorted by district) for districts having classrooms that exceed the four standard deviation criterion.

Student Erasure Analysis Report for students in the identified classrooms that exceed the four standard deviation criterion. This report contains student demographic information, an item-by-item analysis of wrong-to-right

erasures, and a statement showing that the student exceeded the four standard deviation criterion. The scoring contractor will maintain answer documents for the students exceeding the four standard deviation criterion (who are in classrooms that exceed the four standard deviation criterion), sorted by district/school/class. The answer documents will be available for review upon request.

5. Upon receipt of the *School/Class Erasure Analysis Reports*, LDE staff will notify the State Superintendent of Education regarding which schools have been identified.

6. The correspondence from the State Superintendent of Education to the local superintendent will state that a classroom (or classrooms) has been identified as having excessive erasures. Based on the number of erasures found, scores for students exceeding the four standard deviation criterion (who are in classrooms that exceed the four standard deviation criterion) will be voided. The individual student reports from the testing program will reflect the voided scores. In the aggregation of scores at the school, district, and state levels, the voided scores will have the effect of a "zero" score. Included with the correspondence will be the following documentation:

School/Class Erasure Analysis Report Student Erasure Analysis Reports

Copies of this correspondence will be provided to the Deputy Superintendent of Education, the Assistant Superintendent of the Office of Student and School Performance, the Director of the Division of Student Standards and Assessments, and the local District Test Coordinator.

7. When the correspondence is mailed (certified), the local superintendent will be advised to investigate the case of the irregularity and provide a written plan of action to the State Superintendent of Education within twenty working days.

8. A roster of classrooms will be generated where each identified classroom has an average of wrong-to-right erasures greater than three standard deviations above the state average, but less than or equal to four standard deviations above the state average of wrong-to-right erasures. These student scores will not be voided; however, local districts are expected to closely monitor security procedures at those schools.

9. A summary report of erasure analysis irregularities will be presented to the Louisiana Educational Assessment Testing Commission and the Board of Elementary and Secondary Education after each LEAP test administration.

Weegie Peabody
Executive Director

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RULE

Board of Elementary and Secondary Education

**Bulletin 1794 State Textbook Adoption Policy and Procedure Manual
(LAC 28:XXXIII.101-2133)**

Editor's Note: Bulletin 1794 was promulgated as a rule in LR 2:110 (April 1976), and LR 13:496 (September 1987), amended LR 14:227 (April 1988), LR 16:956 (November 1990), LR 16:957 (November 1990), LR 18:255 (March 1992), LR 18:955 (September 1992), LR 21:201 (February 1995), LR 21:551 (June 1995), LR 21:1329 (December 1995),

and LR 24:434 (March 1998) in uncodified format. As a codified document, historical notes will reflect activity from this time forward.

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education adopted revised Bulletin 1794, promulgated in LR 2:110 (April 1976), referenced in LAC 28:I.919.A. Bulletin 1794 contains procedures and guidelines for the adoption of state approved textbooks and reference materials.

**Title 28
EDUCATION**

Part XXXIII. Bulletin 1794—State Textbook Adoption Policy and Procedure Manual

Chapter 1. Purpose

§101. Introduction

A. The State Board of Elementary and Secondary Education (SBESE), in accordance with Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, Part I, Sections 7 (4), 8(A)(1)(a) and Part IV, Section 351(A)(1), has responsibility to prescribe, adopt, control and supervise the distribution and use of free school books and other materials of instruction in elementary, secondary, special, post secondary and vocational-technical schools across the state of Louisiana. Funds are appropriated by the Louisiana Legislature in accordance with Article VIII, Section 13(A) of the Constitution for the purpose of providing school books and other materials of instruction free of charge to the children of this state at the elementary and secondary levels.

B. It is hoped that the policies and procedures contained in this bulletin will help local school districts to provide textbooks that will have a significant, positive impact on student achievement, student attitudes and behaviors, and on the interactions in the learning environment for students of all ages, abilities, backgrounds and areas of interest. Any interested citizen may request their name be placed on the mailing list for textbook adoption information (R.S. 17:415.1A) by writing to:

State Department of Education
Division of School Standards,
Accountability and Assistance
7th Floor, Room 740

Baton Rouge, Louisiana 70802

Attn: State Textbook Administrator

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1436 (August 1999).

Chapter 3. General Provisions

§301. Definitions

Ancillary materials shall be defined as materials that are intended and designed to be used with a comprehensive basal program submitted by the same publisher, and may include materials such as workbooks, puzzles, assessment materials, black line masters, transparencies, etc. *Ancillary materials will be added to the publishers' contract after BESE approval of the basal textbook and teacher's edition.*

Basal shall be defined as student-based curricular materials (print or non-print) which encompass the BESE-approved Louisiana Content Standards for specified subject

areas. These curricular materials are considered a major teacher and student resource for attainment of the state standards and benchmarks and for the locally designed and aligned curriculum and course.

Core Subject Cycle refers to the adoption period for English/Language Arts, Science, Social Studies, and Mathematics.

Teacher's Edition shall be defined as materials used for informing teachers' instruction that are not designed or intended to be used by students. Teacher's editions may include teacher guides or instructor's manuals.

Textbook shall be defined as any medium or material (print or non-print), book, or electronic medium that constitutes the *principal source for teaching and learning* in a specified subject area. A textbook shall be a systematically organized core of *stand alone* instructional materials (which may be hardbound, softbound, electronic or other media) designed to support the teaching and learning of a curriculum based on the state-approved content or state curriculum guides [e.g., home economics, foreign language, health, business education], as approved by BESE.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1436 (August 1999).

§303. Textbook Approval

A. "The state shall prescribe and adopt free school books and other materials of instruction for use in elementary and secondary schools."

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:8(A)(B); R.S. 17: 351(A)(B).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1437 (August 1999).

§305. Textbooks and Materials of Instruction

A. State Screening of Textbooks and Materials of Instruction

1. "The state shall assure that all school books, films, related booklets, audio-visual devices, and any other similar materials of instruction are thoroughly screened, reviewed and approved as to their content by BESE and the local parish or city school board." Textbooks and teaching materials shall be available for public inspection at the Department's book depository and public libraries during regular office hours.

B. Adequate and Appropriate Instructional Materials

1. Instruction [at the local level] shall be supported with adequate and appropriate instructional materials, equipment, and available community resources that support the stated philosophy and purposes of the school system and state adopted content standards.

C. Formal Adoption and Implementation of Textbooks

1. Each school district shall make a formal adoption of textbooks within *3 months* from the date of state-level approval by the State Board of Elementary and Secondary Education (BESE). (Refer to Section II, LEA Responsibilities.)

2. School systems shall implement the latest textbook adoption for core subject areas of English/Language Arts, Science, Social Studies, and Mathematics within a three year period, in accordance with locally determined levels of

access to be provided to students (i.e. classroom sets, personal copy). (Refer to Section II, LEA Responsibilities.)

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4);8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1437 (August 1999).

§307. Louisiana State Adoption Cycle and Time

Lines

A. Texts for specific subject areas shall be adopted every seven years. See appendix for adoption cycles.

B. Broad time lines governing the adoption process are listed on the following page. The Department of Education shall annually specify dates to be followed in each adoption year, per the Invitation Circular Letter to Submit Textbooks and Materials of Instruction for State Adoption which is issued annually to publishers.

C. Time Lines

Invitation to Submit Textbooks and Materials of Instruction Issued by SDE	Early March
Notice of Publishers' Intent to Participate Due to SDE	End March
SDE Supplies Submission Packet and Forms to Requesting Publishers	End March
State Committee Appointed (confidential letter)	April
SDE Informs Participating Publishers of State Committee Names/Publicly Names State Adoption Committee	April
Publishers' Mandatory Orientation	April
Submission Forms Due from Publishers to SDE; Manufacturing Standards on each Book Due to SDE	May
Detailed Specifications Filed by Publishers with SDE Regarding Hardware, Software, Special Equipment needed to review any item included in bid	May
Detailed Correlations to State Content Standards/Curriculum Guides Due to SDE from Publishers	May
State Committee Orientation	June/July
State Committee Files List with SDE of Equipment Needed to Review Textbooks	June/July
Publishers Supply Textbooks for Review to Designated Locations	June/July
State Committee Review of Textbooks	June/July- Mid- September
Public Review of Textbooks	June/July- Mid- September
Final Date for State Committee Members to Submit Written Questions for Publishers on Books Under Consideration	Mid- September
Final Date for Publishers to Submit copies to SDE of Answers to Written Questions from State Committee	October 1
SDE to Forward to State Committee Publishers' Written Answers	First Week October
SDE to Forward to State Committee All Written Public Comments	First Week October

State Committee Makes Final Recommendations for Adoption; State Committee files Affidavit Regarding Contact with or by Publishers	Mid-October
Publishers File Affidavit Regarding Contacts with State Board of Elementary and Secondary Education Members, Textbook and Media Advisory Council and Members of the Statewide Adoption Committee.	End October
Receive the Report on public comments by Textbook and Media Advisory Council	End October
Publishers Submit Final Versions of Texts to Replace Initial Galley Proofs	End October
BESE Approval of Textbooks Recommended for Current Adoption & Contact Affidavits.	End October
Publishers/Contracts Approved by BESE	November/ December
Final Date for Publishers of Adopted Textbooks to Comply with SDE Directives on Production of Braille Materials	End March
Textbook Caravan	November- January
Local Adoption	November- End March
Initial Local Ordering	March-Mid- May

Note: Specific dates and timelines to be specified by SDE each year with Invitation Circular Letter.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4);8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1437 (August 1999).

§309. Funding for Textbooks

A. The Constitution provides that the Legislature shall appropriate funds to supply free school books and other materials of instruction prescribed by the State Board of Elementary and Secondary Education (SBESE) to the children of this state at the elementary and secondary levels. The SBESE annually develops and adopts a formula to determine the cost of a minimum foundation program of education. Additional funds for textbooks may be awarded through state grants (e.g., 8g Quality Educators and K-3 Reading) and through federal grants.

B. State funds shall be used for the purchase of textbooks on the SBESE-adopted textbook list and academically related ancillary materials according to state guidelines (Bulletin 741, 3.026.13). Funds may also be used to purchase instructional materials for grades Kindergarten - Three and appropriate special education classes that are manipulative and concrete in nature in order to support the instructional program at these grade levels. Waivers for purchase of non-adopted textbooks/materials which exceed 10 percent of the state allocations may be granted to local school systems in special circumstances.

C. The State Board of Elementary and Secondary Education, at its meeting of June 22, 1989, exercised those powers conferred by the emergency provision of the Administrative Procedure Act, R.S. 49:953 B, and adopted

the following guidelines to allow state textbook funds to be used to purchase instructional materials for Grade K-3 as recommended by the Department of Education.

1. For classes K-3, the school superintendents are authorized to use textbook funds to purchase textbooks and other materials that can be used to support the instruction in these four elementary grades (K-3).

2. The major emphasis in selecting instructional materials for K-3 should be on manipulative and concrete materials such as blocks, dramatic/housekeeping toys, manipulative (puzzles, legos, etc.), gross motor materials (jump ropes, balls, etc.) and other manipulative materials.

3. The characteristics and needs of the child in grades K-3 should be considered when selecting appropriate materials.

D. The State Board of Elementary and Secondary Education may authorize the Louisiana School of Math, Science and the Arts and other parish or city school boards with programs for gifted students to select and purchase textbooks not included on the lists adopted by the Board pursuant to the provisions of this Section, provided that such authorization shall be on an ad hoc basis and shall be subject to prior approval by the Board. Such purchases may be made using funds appropriated by the Legislature for the purchase of textbooks as provided for herein.

E. Public Schools

1. State and local funding for approved textbooks is generated through the Minimum Foundation Program (MFP) funding formula. The formula determines the minimum cost of total operational expenditures for each school system. Districts receive the state's share as part of a monthly allotment with provision for local flexibility that allows funds to be used as deemed appropriate by school systems. The amount of funding needed to supply an adequate number of new textbooks for any given adoption can be estimated using the following formula:

October 1 Student Membership X Textbook Unit Price =	
Estimated Textbook Costs	
(By Grade Level) (As adopted by LEA)	
(Costs Shared State and Locally)	

2. It is required that districts take no more than three years to purchase newly adopted textbooks for core curriculum areas at all grade levels. The following example provides a method of estimating minimum expenditures for any given adoption cycle.

E.G., Math Adoption Cycle:			
Step 1			
OCTOBER 1 MEMBERSHIP	UNIT PRICE	ESTIMATED COSTS	
1,000 (Grades K-6) X	\$30.00 =	\$30,000	Full Implementation
+1,000 (Grades 7-12) X	\$40.00 =	\$40,000	Full Implementation
2,000 (Total)		= \$70,000	Full Implementation
Or;			
Step 2	\$70,000 / 3 = \$23,333	Estimated Minimum First Year Math Implementation for a school district with student population of 2,000	

F. Nonpublic Schools

1. Each nonpublic school receives a textbook allocation based on the number of K-12 nonpublic students enrolled in BESE and Brumfield-Dodd approved nonpublic schools. Reimbursement will be made to local school districts for purchases of nonsectarian books for nonpublic school students at the rate of \$27.02 per student. All books (textbooks, library books, encyclopedias and encyclopedic references) that go through a state adoption process are considered appropriate and may be purchased for nonpublic school students. *Orders for textbooks and materials of instruction must be delivered during each fiscal year (i.e., July 1 to June 30) in order to be eligible for reimbursement.*

October 1 Student Enrollment X \$27.02 = State Nonpublic Textbook Allocation (Academically and Brumfield approved schools)

2. If materials and supplies are included in purchase orders, it will be the responsibility of the local school district to conduct audits to ensure that the materials and supplies are used to provide students with nonsectarian instruction. Furthermore, all textbooks must be purchased and distributed through the local school district for each eligible nonpublic school in their area. It is requested that reimbursement requests be submitted in a timely manner. Payments will be made only from invoices. *In no event should these funds be distributed directly to nonpublic schools.*

3. Payments for textbooks and textbook administration will be made upon receipt of the completed Nonpublic School Textbook Invoice form provided through the Division of Educational Finance Services.

G. Special Funding For Textbooks

1. 8(g) Quality Education Support Fund

a. School districts and approved nonpublic schools may use 8(g) Quality Education Support Funds to supplement state MFP and local funding for textbooks and materials of instruction. The purpose of these funds is to ensure an adequate supply of superior textbooks, library books, and/or reference materials for these approved schools.

b. Effective with the 1996-97 granting cycle, Consent Judgement 90-880-A enjoins the State Board of Elementary and Secondary Education from making grant awards for library books and/or reference materials to non-public agencies that are determined to be pervasively sectarian entities.

c. Guidelines, issued each year by the State Board of Elementary and Secondary Education, should be consulted for specific requirements related to expenditures and for funding allocations.

H. Availability of Prestige License Plates and Applicable Revenues. R.S. 47:463.46, enacted during the 1997 Legislative Session, provides for a prestige license plate to provide special funding for the purchase of textbooks in approved elementary and secondary schools. The plate, bearing the words "Helping Schools," is available for purchase from the Department of Public Safety and Corrections at an annual fee of \$25.00, in addition to the regular fee. Revenues must be invested by the State

Treasurer, on behalf of SBESE. Funds must be used solely for the purchase of textbooks.

I. Use of Federal Funds. School districts are encouraged to develop a consolidated plan, using all available funding streams, including federal funds, in order that adequate and appropriate textbooks and materials of instruction are available for students.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172:351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1438 (August 1999).

§311. Invitation Circular Letter

A. Specific dates are determined each year and are documented in the Invitation Circular notice issued to publishers.

B. The Invitation Circular Letter shall be sent to interested publishers from the Office of Student and School Performance (tentatively set for *March 1 of each year; refer to specific guidelines issued by the SDE each year*). The invitation will announce the subject and disciplines of materials being considered for adoption. Included in the invitation will be written guidelines and instructions covering the adoption process. The review of materials and adoption vote will be *limited to the student book (basal) and the teacher edition*. Publishers are also required to list on appropriate forms all ancillary and free materials which will accompany the basal texts. (Refer to §301 for definitions of textbooks, basal, teachers' edition, ancillary, and core subject cycle.)

C. The SDE shall provide specific forms to be used for textbook submissions. Publishers must list *each* book separately, along with copyright, price, printing edition, and grade/subject area to be considered for adoption, even if part of a series.

D. *No substitutions* shall be allowed to the list of textbooks once publishers submit the response to "Louisiana Textbook (LT)" forms. Publishers *WILL NOT* be allowed to discuss upcoming editions or pending revisions of texts *at any meetings* of the State Textbook Selection Committee.

E. *EACH* book must be evaluated on the basis of its current content. Final bound galley proofs may be submitted under certain circumstances, providing that the final hardbound copy is submitted, received and approved by the SDE prior to the final vote of the State Board of Elementary and Secondary Education. (Refer to specific timelines issued by the SDE for each adoption cycle.) Unbound manuscripts *will not* be accepted.

F. Publishers must guarantee that textbooks and materials of instruction which are submitted for consideration in the "LT Submission" form will be made available for duration of a seven-year contract period. *Do not submit materials that cannot be guaranteed for the duration of the contracted period*. No substitutions of texts or prices are allowed (unless the price is lowered, per Favored Nations clause) once the Submission Form is received by the SDE.

G. The Invitation Circular Letter shall also include an "*Intent to Participate*" form which shall be returned to the SDE by all publishers interested in responding to the Invitation.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361- 365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1439 (August 1999).

§313. Establish State Textbook Adoption Committee

A. All textbook adoption committees appointed by the Superintendent of Education shall contain a membership of not less than one-third of which are teachers, not less than one-third of which are parents who are not public educators, and the remainder of which are other persons. For purposes of this section, the term *teacher* shall mean any person employed by a city or parish school board, who, as a condition of employment, is required to hold a valid teaching certificate issued by the Department of Education (R.S. 17:415.1).

B. Nominations for membership may be made by the State Board of Elementary and Secondary Education, local school superintendents, and representatives of the BESE Nonpublic School Commission, as well as the State Superintendent of Education. The Committee shall contain a broad cross section in membership, to include parents, nonpublic educators, special educators, district-level curriculum supervisors, classroom teachers, and others who have interest and or knowledge of curriculum and subject matter under adoption.

C. Potential committee members shall be screened for potential conflict of interest with textbook publishers. Appointed members shall have no direct or indirect contact with publishers nor shall members have any business relationship, previous or planned, with any publisher. Committee members shall receive nothing of value from publishers or representatives in the state textbook adoption procedures, nor shall they accept any gratuity or offer of payment for services or attendance at publisher-sponsored functions. Potential members shall be asked to submit background information, including training and experience, willingness and availability to serve, and also an affidavit attesting that no conflict of interest with textbook publishers exists.

D. Committee members and publishers shall be informed in writing of appointment to the State Selection Committee by the State Superintendent according to the time line specified.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172;351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1440 (August 1999).

§315. Establish Criteria and Procedure for

Evaluation and Selection of Textbooks and Materials of Instruction

A. The following SBESE-approved definition shall serve as a framework for the review of textbooks and materials of instruction which are offered for adoption.

1. A *State-Approved Textbook* is defined as a systematically organized core of instructional materials (which may be hardbound, softbound, electronic or other media) designed to support the teaching and learning of a curriculum based on the state-approved content standards and state assessment as approved by SBESE. This definition includes any medium or material (print or non-print), book,

or electronic medium that constitutes the principal source of study for teaching in specified subject areas.

B. At a minimum, the following framework shall guide evaluation.

1. Textbooks and materials of instruction shall align with the standards and benchmarks of the State content standards, state-approved curriculum guides and state assessment program.

2. Textbooks and materials of instruction should promote an understanding of the history and values of the people of the United States and Louisiana, including the free enterprise system, private property, constitutional liberties, democratic values, and traditional standards of moral values. (R.S. 17:351).

3. Textbooks and materials of instruction should accurately reflect the contributions and achievements of people of differing races. (R.S. 17:351).

4. Other criteria as specified in the SDE-developed evaluation instrument (s).

Note: The SDE shall establish an appropriate evaluation instrument(s) which shall be used by State Textbook Adoption Committee members, and their local subcommittees, as tools for final decision making. In addition to the above frameworks, additional evaluation criteria shall focus on alignment of proposed textbooks and materials with the SBESE-approved state content standard/curriculum guides and assessment programs.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1440 (August 1999).

§317. Provide for a Publishers' Orientation

A. The SDE shall schedule an Orientation for all interested publishers. Publishers who are interested in submitting textbooks and materials of instruction for consideration are *required to have representation at the orientation or be eliminated*.

B. Publishers will receive information regarding expectations for content of state-adopted textbooks and materials of instruction. Procedures for submission, review and evaluation, and contracting will be discussed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1440 (August 1999).

§319. Establish Procedures for Concerned Citizens' Involvement in the Review Process and a Procedure for Response by Textbook Publishers

A. A minimum of eight public sites shall be established for display and review of all basal textbooks presented for consideration. Sites shall include, at a minimum, New Orleans, Baton Rouge, Shreveport, Monroe, Alexandria, Lake Charles, Lafayette, and Houma.

B. The SDE shall establish, in accordance with R.S. 17:415.1, a procedure which allows interested persons who are legal residents of Louisiana to inspect and review the books offered for adoption at the public review sites. Said procedure shall allow for written comments by citizens and written responses by publishers, and if requested, oral presentations by citizens and publishers.

C. *Interested citizens* who choose to make oral objections before the *State Textbook Adoption Committee*

shall be allotted a maximum of 10 minutes. Oral objections by citizens shall be limited to those objections which have been previously filed in writing with the Department of Education following review at the public display sites. Upon request, citizens may also request to state oral objections before the *Textbook, Media and Library Advisory Council* of SBESE who will report findings to the Student Standards and Assessment Committee of SBESE. Comments shall be limited to 10 minutes and include only those previously filed in writing with the Department of Education.

D. *Publishers* shall provide a written response and shall have an option (maximum of 10 minutes) to present a response before the State Textbook Selection Committee and the *Textbook, Media and Library Advisory Council* of SBESE.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1440 (August 1999).

§321. Role and Responsibilities of the State

Textbook Adoption Committee

A. Committee members shall receive nothing of value from potential bidders for state textbook adoption at any time during the adoption process, nor shall they accept any gratuity or offer of payment for services or attendance at publisher-sponsored functions. Potential members shall be asked to submit background information, including training and experience, willingness and availability to serve, and also an affidavit attesting that no conflict of interest with textbook publishers exists.

1. Members shall be informed in writing that they shall have *no contact with publishers* once formal appointment to the State Adoption Committee is received. Publishers shall not attempt to influence the deliberations or vote of a Committee member, either directly or through third parties. *Violations of this requirement may result in immediate disqualification of the publisher and committee member.*

2. State Committee members shall be provided orientation and training by the Department of Education on purposes of the adoption, criteria for evaluation, use of the evaluation instrument(s), and procedures to be followed if local subcommittees are used to assist in the review process. Staff members of the Department of Education shall serve as consultants on curricular content and adoption procedures during all meetings of the Committee.

3. Committee members are *required to be in attendance and participate in all scheduled* activities of the Committee. Members must be in attendance at all scheduled meetings of the Committee in order to cast a vote for textbooks under consideration. The committee chair shall verify the attendance of the members.

4. State Committee members shall evaluate all titles submitted for adoption using the state-approved evaluation instrument(s). One evaluation form shall be completed by each State Committee member on each title reviewed. Evaluation forms are designed to assist the State Committee member in formulating a final decision and vote. Forms shall in no way be considered as binding upon the final vote of the committee member. In accordance with public records law, evaluation forms used for decision making will be collected by the SDE.

a. Part of the evaluation allows each State Committee member to formulate and prioritize *relevant questions* to be addressed by publishers on each book. Said questions shall be forwarded to the SDE by each Committee member by a date to be specified by the SDE.

b. The Committee may elect to move titles of textbooks from one subject area to another if it is felt that the book was placed inappropriately in a subject area by the publisher.

B. Each State Committee member may select, with assistance of the local textbook supervisor, a local five-member subcommittee. The department encourages that local subcommittees be made up of a broad cross section in membership, and may include parents, nonpublic educators, special educators, district-level curriculum supervisors, classroom teachers, and others who have interest and or knowledge of curriculum and subject matter under adoption to assist in the evaluation process.

1. Each subcommittee should evaluate textbook materials using procedures and instruments that parallel those specified by the Department of Education for the State Committee. The evaluation instrument(s) include an area for written questions to be addressed by publishers on specific textbooks which may then be submitted to the State Committee member for consideration.

2. Evaluation forms completed by local subcommittees are to assist the State Committee member. Only those forms used by the State Committee member for decision making will be collected by the SDE.

C. The final vote on each textbook under consideration shall be through a voice roll-call vote which shall be duly recorded by the SDE. The State Committee member shall have discretion and final authority in the vote on each textbook under consideration for adoption.

1. Each book must receive a *favorable majority* (defined as one vote over half of appointed committee members in attendance) of votes of the State Textbook Selection Committee in order to be placed on the state adopted list.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1441 (August 1999).

§325. Adopting Authority

A. The State Board of Elementary and Secondary Education (SBESE) is the official adopting authority in the state of Louisiana. SBESE will receive the report from the *Textbook, Media, and Library Advisory Council* regarding public comments on textbooks proposed for adoption.

B. Oral objections shall be limited to those which have been previously filed in writing with the Department of Education following review at the public display sites. Persons choosing to make oral objections shall be allotted a maximum of 10 minutes to address the full Board.

C. Publishers shall be allowed to provide a written response and or allotted a maximum of 10 minutes to present relevant information before the full Board.

D. The *Textbook, Media, and Library Advisory Council* shall be composed of members appointed by the State Board of Elementary and Secondary Education. The Council's function is to review relevant legislation, proposed SBESE policy, hear public comments regarding textbooks and

materials of instruction proposed for state adoption and report findings to the Student Standards and Assessment Committee.

E. The Student Standards and Assessment Committee is made up of members of the State Board of Elementary and Secondary Education. The Committee may hear public comments which have been scheduled as a result of written comments received during the public review period. The Committee will in turn make recommendations to the full Board of Elementary and Secondary Education.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1441 (August 1999).

Chapter 5. Local School System Responsibilities

§501. Local Planning

A. Local school systems shall develop a plan for providing adequate and appropriate instructional materials for students. Such plans shall include formal adoptions and appropriate procedures, as well as plans for implementation of policies included in Section II, C. *Districts must submit plans to SDE by June 30 of each year.*

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1442 (August 1999).

§503. Formal Adoption (see also, Bulletin 741, 1.070.03)

A. School systems shall make a formal adoption of textbooks according to the state adoption cycle within 3 months from the date of formal approval by the State Board of Elementary and Secondary Education (BESE).

Note: Will require a change in Bulletin 741.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1442 (August 1999).

§505. Local Implementation

A. Adequate and Appropriate Instructional Materials

1. Textbooks and materials of instruction for all curriculum areas at the local level shall be supported with adequate and appropriate instructional materials, equipment, and available community resources that support the stated philosophy and purposes of the school system (see also, Bulletin 741, 1.070.00).

a. School systems shall make a formal adoption of textbooks within *3 months* from the date of state-level approval by the State Board of Elementary and Secondary Education (BESE). Local school systems shall provide students with access to current textbooks that conform to minimum standards of quality.

2. Textbooks for Core Curriculum Areas

a. School systems shall implement the latest textbook adoption for *core subject areas* of English/Language Arts, Science, Social Studies, and Mathematics within a three-year period, in accordance with locally determined levels of access to be provided to students (i.e. classroom sets, personal copy, other specified arrangement).

b. Currency. A school system shall implement the latest textbook adoption for core subject areas within a three-year period. Waivers of this policy shall be approved by BESE only upon extenuating circumstances as documented in the local Plan of Implementation to be submitted by June 30 of each year to the Department of Education.

c. Quality. A school system shall annually provide students with textbooks and materials of instruction that are useable and functional. Upon initial adoption textbooks and materials must conform to the Minimum Manufacturing Standards and Specifications for Textbooks as developed by the National Association of State Textbook Administrators (NASTA) in consultation with the American Publishers and Book Manufacturers' Institute.

d. Access. A school system shall, based on input from local teachers, principals, administrators, and others, determine how access to textbooks in *core subject areas* will be made available to students. School systems must ensure that each child within the classroom will have equal access to any available instructional materials. School systems shall also *inform each parent/guardian in writing* at the beginning of each school year of the method of access to textbooks which has been selected for each course or grade level. A contact person and phone number should be provided.

i. Options for providing textbook access for students may include:

(a). textbooks provided for each student;

(b). textbooks provided via a classroom set;

(c). textbooks provided as both a classroom set and take home copy for each student; or

(d). other specified arrangement as deemed appropriate to the subject area by local officials.

3. Textbooks for Areas Other than Core Curriculum

a. Local school systems shall fully implement adoption in subject *areas other than core* as soon as funds will permit or as programmatic needs dictate. School systems must ensure that each child within the classroom will have equal access to any available instructional materials for non-core subject areas.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1442 (August 1999).

§507. Local Adoption Procedures

A. Purpose

1. To assure local public school systems have a defined procedure for textbook adoption.

2. To provide an opportunity for appropriate input in textbook selection.

3. To ensure curriculum content that reflects current national, state, and local standards of instruction.

B. Each local school system will hold a formal textbook adoption. The local textbook adoption process shall focus on those textbooks selected at the state level. *AFTER* state committee textbook recommendations are approved by the Board of Elementary and Secondary Education, within *thirty days* local school systems will be provided the list of state approved textbooks. Additional information regarding cost items included with the basal text, as well as all items to be given at no cost to local school systems, shall also be made available.

C. Local Adoption Procedures

1. An Established Time Line

a. Local school systems *must* hold textbook adoption each year following BESE approval of newly adopted texts. Districts are encouraged to hold local adoptions between *November and the end of March*. Participation in the State Textbook Caravan is optional but may be used as a part of the local adoption procedures (see §507 D).

b. The SDE must be notified as to the locally adopted textbooks and the school system's Plan for Implementation by *June 30* in the school year of the adoption.

2. Properly Constituted and Trained Local Adoption Committee

a.i. All textbook adoption committees shall contain a membership of not less than one-third of which are teachers, not less than one-third of which are parents who are not public educators, and the remainder of which are other persons. For purposes of this section, the term *teacher* shall mean any person employed by a city or parish school board, who, as a condition of employment, is required to hold a valid teaching certificate issued by the Department of Education (R.S. 17:415.1).

ii. Diverse membership is encouraged to include parents, nonpublic educators, special educators, district-level curriculum supervisors, classroom teachers, and others who have interest and or knowledge of curriculum and subject matter under adoption.

b. Local adoption committee members are to receive special training in textbook selection criteria (i.e., knowledge of subject area content standards and assessments), voting procedure and integrity of interaction with publishers.

D. Participation in State Textbook Caravan

1. School systems are encouraged to participate in the State Textbook Caravan as scheduled by the SDE. The State Textbook Caravan affords all school systems an equal opportunity to preview all state adopted textbooks and ancillary materials with onsite availability of publishers to answer questions.

2. All school systems, public, private and parochial, are eligible to participate in the State Textbook Caravan.

E. Provision for Publishers' Contact with Local School District; Optional Requests for Local Presentations

1. Local school systems are strongly encouraged to *establish a formal policy* regarding the method, time line, and procedure for publishers seeking to have contact with personnel at central offices and local school sites. Such policies may also address the provision of written materials to school and central office personnel as well as attendance of school and central office personnel at functions sponsored by publishers. Local school systems are further encouraged to *inform publishers* of local policy.

2. Local school systems may use the State Textbook Caravan as the single opportunity for publishers' presentations within the parish OR as a vehicle for identifying those publishers to be called for a local presentation.

3. *At the district's request*, one additional presentation by a publisher will be permitted at the local level for clarification of information on textbooks under consideration

for adoption. However, such follow up presentation *may not occur* prior to conclusion of the State Textbook Caravan.

F. Sampling of Textbooks by Publishers; Violation will disqualify publisher.

1. Publishers are to furnish examination copies *only at the written request* of the local school system textbook adoption coordinator after state committee review.

2. Samples are to be *limited to* sufficient quantities for the designated local adoption committee members only, as determined by the local system textbook adoption coordinator.

3. Other persons choosing to examine samples *must* use samples provided by the SDE at predesignated sites for public review.

4. No other examination copies will be permitted.

5. Publishers must notify local school systems, in writing, of the need to have samples returned. If notified by publishers, all samples received by local school systems must be picked up by the publisher within *thirty days* after the local adoption.

6. Publishers must make all necessary arrangements for sample returns at publisher's expense.

G. Local Selection of Textbooks

1. An evaluation instrument must be used by local school districts. Alignment with state adopted content standards and state and local curriculum objectives, where applicable, *shall* be a primary consideration in the evaluation process. Local school districts may model state developed procedures and evaluation instruments.

2. An official summary report of local evaluation results is to be kept on file for a minimum of three years.

H. Notifying State of Local Textbook Selections

1. Local school districts shall notify the SDE of all textbooks selected by discipline and course via the local Plan of Implementation. Said notification must be made by *June 30* in the school year of the state adoption (Refer to Records and Reporting Requirements).

I. Notifying Schools of Locally Selected Textbooks

1. Each school shall be provided a list of all components of the locally adopted basal textbook in each subject area, including those items which may be purchased with textbook funds, and those items to be supplied by the publishers at no cost.

2. Local school systems may share with each school a list of the strengths and weakness of all textbooks selected.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1442 (August 1999).

§509. Ordering

A. All local systems must establish the amount of monies to be used for textbooks, library books, and school supplies from their MFP allocation. This breakdown shall be forwarded to the Office of Student and School Performance with its *Plan of Implementation* for the purchase of textbooks each year. The Plan of Implementation shall be submitted by *June 30* of each year.

B. Once the LEA determines the need of the schools based on the adoption schedule, orders may be placed with the SDE-designated textbook depository or directly with publishers.

C. When placing orders with the depository, the following schedule is suggested for ordering:

1. March 15 - May 15. Initial Ordering (*suggested time for ordering textbooks to be placed in schools for the first time in the coming school year).

2. May 15 - October 15. Second Ordering (*suggested time for revising initial order, ordering replacement or additional copies of texts already in use in the schools).

3. School systems may place orders in advance of the starting dates of each cycle.

D. All orders placed with the depository shall be delivered within 90 days of the end of each ordering cycle unless a later delivery date is requested by the LEA. Publishers and or the state textbook depository may be fined 1 percent of all outstanding balances on orders not delivered within ninety (90) days of the end of each ordering cycle, or within thirty (30) days for orders not placed during the ordering period, based upon complaints of local school districts and follow up review by the SDE. See §1901 of Appendix F.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1443 (August 1999).

§511. Direct Order of Textbooks

A. Effective January 1, 1998, HB 1057 of the 1997 Regular Session provides that any *governing authority* of a public elementary or secondary school may order and receive state adopted textbooks directly from a textbook publisher. Textbooks purchased directly from the publisher must be the same price or lower than can be purchased from any other source.

B. Publishers may be fined 1 percent of all outstanding balances on orders not delivered within ninety (90) days of the end of each ordering cycle, based upon complaints of local school districts and follow up review by the SDE. (See §519 and §1901 of Appendix F.)

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1444 (August 1999).

§513. Waivers

A. Purchasing Books not on the Approved State List

1. A local school system or school may use *up to but not to exceed 10 percent of its textbook allotment* for the purchase of non-state adopted textbooks and materials of instruction. Approval by the State Board of Elementary and Secondary Education is not required.

B. Special Waiver to Exceed 10 percent of Textbook Allotment on Non-adopted State Textbooks and Materials of Instruction

1. A local school system, with the approval of its local school board or chartering authority, and may petition in writing the State Department of Education for permission to spend *in excess of the 10 percent* allowance for non-adopted state textbooks. The Office of Student and School Performance will present the petition to BESE for action and notify systems of the results.

2. Requests shall be accepted from *March through May 31*. Textbook orders may not be processed until waivers have been approved. The last month for BESE action on

such waivers shall be June. Any extenuating circumstances shall be handled on an individual basis.

C. Purchase of Instructional Materials for Grades K-3

1. The State Board of Elementary and Secondary Education, at its meeting of June 22, 1989, exercised those powers conferred by the emergency provision of the Administrative Procedure Act, R.S. 49:953 B, and adopted the following guidelines to allow state textbook funds to be used to purchase instructional materials for Grade K-3 as recommended by the Department of Education.

a. For classes K-3, the school superintendents are authorized to use textbook funds to purchase textbooks and other materials that can be used to support the instruction in these four elementary grades (K-3).

b. The major emphasis in selecting instructional materials for K-3 should be on manipulative and concrete materials such as blocks, dramatic/housekeeping toys, manipulative (puzzles, legos, etc.), gross motor materials (jump ropes, balls, etc.) and other manipulative materials.

c. The characteristics and needs of the child in grades K-3 should be considered when selecting appropriate materials.

D. Special Purchase for Gifted Programs

1. The State Board of Elementary and Secondary Education may authorize the Louisiana School of Math, Science and the Arts *and* other parish or city school boards with programs for *gifted students* to select and purchase textbooks *not included on the lists adopted* by the Board pursuant to the provisions of this Section, provided that such authorization shall be on an ad hoc basis and shall be subject to *prior approval by the Board*. Such purchases may be made using funds appropriated by the Legislature for the purchase of textbooks as provided for herein.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1444 (August 1999).

§515. Records and Reporting Requirements (see also, Bulletin 741, 1.026.12-13; 3.026.12)

A. School systems shall maintain an inventory system for use in submitting records and reports, as required by the Department of Education, and include all textbooks on hand at the beginning of the session, as well as records of those added, worn out and in need of replacement.

1. Local Plan of Implementation

a. Local school systems shall submit an annual *Plan of Implementation* for textbook adoption to the SDE by June 30 of each year. Such plans shall document local implementation of adequate and appropriate instructional materials. Specific forms for this purpose will be provided by the SDE. In addition, an ongoing textbook inventory system should be used to maintain records for a minimum of three years.

b. The SDE must be notified of all textbook titles selected by discipline/course. This plan must address the number of books to be ordered by subject, course, and grade level. The school system shall *indicate which of the following options* will be applicable to the latest subject adoption:

- i. textbooks will be provided for each student;
- ii. textbooks will be provided via a classroom set;

- iii. textbooks will be provided as both a classroom set and take home copy for each student;
- iv. other specified arrangement as deemed appropriate to the subject area by local officials.

2. Textbooks Used By Blind and Visually Impaired Students

a. School systems in need of books and materials for use by blind and visually impaired students should begin by contacting the school district's special education supervisor to ensure the student has an approved Individualized Educational Plan (IEP) that states the need for braille or large print materials. The Local Textbook Implementation Plan submitted to the State Textbook Administrator each year should include a statement of need and a plan for securing textbooks for students who are blind or visually impaired. This plan should include the following:

- i. procedures for requesting/ordering from Louisiana Learning Resource System (LLRS);
- ii. procedures for securing textbooks not available from LLRS;
- iii. number of students included on the census of students with visual impairments compiled by LLRS school code;
- iv. number of students reported visually impaired and or blind to the Student Information System (SIS) at each school code.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1444 (August 1999).

§517. Textbooks for Home Study Program

A. The following procedures shall be used for ordering of textbooks to be used in approved home study programs. Parents and or guardians *must* proceed through the following steps in order to access textbooks for students in home study:

- 1. submit application to SDE and obtain approval for participation in the Home Study Program;
- 2. present copy of approved Home Study Application form to the local Textbook Supervisor or designee at local school board office;
- 3. select the textbooks and/or materials needed from the listing provided by the textbook personnel at each local school board office (only materials approved by SBESE and adopted by local school districts are provided, *when available*);
- 4. provide a deposit equal to fifty percent (50 percent) of the replacement cost. Such deposit will be returned when the books are returned. If books are not returned or paid for, the parent or legal guardian shall not be eligible to continue participation in the textbooks rental program until all textbooks debts are cleared.

Note: Only one grade level set of texts per child per subject is available at any single time.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13 (A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236-236.1; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1445 (August 1999).

§519. Report on Status of Local Ordering—Late Delivery by Publishers

A. LEAs shall inform the SDE of any publisher who fails to provide textbooks within ninety(90) days of the end of each ordering cycle, or within thirty (30) days for orders not placed during the ordering period. Such notice shall be on forms prescribed by the SDE. (See §1901 of Appendix F).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1445 (August 1999).

§521. Sale of Textbooks No Longer in Use

A. LEAs shall request permission of the SDE to dispose, sell, or donate out-of-date or unusable or unsalable textbooks. *Limitation: Textbooks no longer in use may not be sold to anyone whose intent is to resell them.*

B. In order to obtain the greatest utility from out-of-use textbooks and to assist local school districts and schools, the following options are available to local school districts.

1. If a textbook or library book has been *out of use for over a year* a parish or city school board may, with the *approval of the [State] board*, donate said book to any public hospital, any jail or prison, or any public institution, or to any individual for private use free of charge.

a. Any textbook or library book which a parish or city school board is unable to sell or donate after being out of use *in excess of eighteen months*, or any textbook or library book which is deemed by said board to be unusable or unsalable, shall be *disposed of* in an appropriate manner.

b. A parish or city school board, with the prior approval of the State Board of Elementary and Secondary Education, may by the debinding and shredding method, dispose of any textbook or library book that has not been sold or donated and has been out of use parish wide in excess of eighteen months. If the debinding and shredding method is chosen the following procedures are to be followed:

- i. submit request(s) to the SDE between March - June 30 of each year;
- ii. upon submission of request, local school districts shall notify all SBESE and Brumfield-Dodd approved non-public schools within their district of the availability of these textbooks by disciplines, giving them *three weeks* to express their interest in securing any of these textbooks;
- iii. the local school district may select a vendor and enter into a contract for the debinding and shredding of those books no longer in use;
- iv. the local school district shall maintain appropriate records for *three years*;
- v. the local school district shall derive all funds from the debinding. Funds derived from such sale shall be used by the parish or city school board *solely* for textbook or library book purchases.

c. The reproduction of any textbook or library book no longer in use by a parish or city school system and the use of multiple copies of such books by organized groups or by an educational agency or entity is prohibited, per R.S. 17:8.1.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1445 (August 1999).

§523. Reasonable and Proper Care for and Control over Textbooks and Other Materials of Instruction

Note: This policy shall also be applicable to instructional materials, supplies, and equipment (see also Bulletin 741).

A. HB 2175, of the 1997 Regular Session, authorizes local school systems to establish methods by which responsibility for reasonable and proper care for and control over textbooks and other materials of instruction is ensured. The SDE recommends that Student Handbooks, issued to students at the beginning of each school year, include a policy statement that stipulates responsibility for proper use and control over textbooks and other materials of instruction that are on loan to the student during the school year. Signature lines should be included for both student and parent/legal guardian acknowledgment of responsibility. In addition, a contact name and phone number should be provided. Payment plans for restitution by parents/guardians may be specified.

B. Each school system, as part of their responsibility to ensure proper care and control of textbooks, shall adopt procedures which hold students and parents/guardians responsible for exercising reasonable and proper care of textbooks and materials of instruction.

C. Such procedures may provide that parents and/or legal guardians may be required to compensate the school district for lost, destroyed, or unnecessarily damaged books and materials, and for any books which are not returned to the proper schools at the end of each school year or upon withdrawal of their dependent child. Under no circumstances may a student of school age be held financially responsible for fees associated with textbook replacement.

D. Compensation by parents or guardians may be in the form of monetary fees or community/school service activities, as determined by the school governing authority. In the case of monetary fees, fines shall be limited to no more than the replacement cost of the textbook or material, but may, at the discretion of the governing authority, be adjusted according to the physical condition of the lost or destroyed textbook. A school system may waive or reduce the payment required if the student is from a family of low income and may provide for a method of payment other than lump-sum payment.

E. In lieu of monetary payments, both school systems and parents/guardians may elect to have students perform school/community service activities, provided that such are arranged so as not to conflict with school instructional time, are properly supervised by school staff, and are suitable to the age of the child.

F. School systems may withhold the grades of a student if a parent or guardian fails to adequately compensate the school or school system for lost, destroyed, or unnecessarily damaged books (through monetary fees or community/school service activities).

G. However, under NO circumstances may a school or school district refuse the parent/guardian the right to inspect relevant grades or records pertaining to the child NOR may the school or school district refuse to promptly transfer the

records of any child withdrawing or transferring from the school, per requirements of the Federal Family Educational Rights and Privacy Act. Transfer of records shall not exceed 45 days from the date of request.

H. Under NO circumstances may a school or school district deny a student promotional opportunities, as a result of failure to compensate the school district for lost or damaged textbooks. Students shall not be denied continual enrollment each grading period nor re-entry in succeeding school years as a result of lost or damaged books.

I. Students shall not be denied the use of a textbook during school hours each day. Each school system shall annually inform parents and/or legal guardians of the locally adopted procedures pursuant to state law and regulation, regarding reasonable and proper control of textbooks (See also Bulletin 741, *School Administrators Handbook* for policy regarding this legislation).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1446 (August 1999).

§525. Ongoing Inventory System

A. School are required to develop and maintain an ongoing textbook inventory system. Records should be kept on file a minimum of three years. Data elements should include those requested for the district's Plan of Implementation.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1446 (August 1999).

Chapter 7. Publishers' Responsibilities

§701. Requirements for Publishers' Participation in State Textbook Adoption

A. Publishers are *required to follow the procedures* below in order to be eligible to participate in any state textbook adoption process. Publishers *must* provide the required information to the Department of Education by the specified time each year in order for a bid to be accepted for consideration.

B. An *Intent to Participate* form shall be mailed during each adoption year to publishers whose names and addresses are on file in the Department of Education.

C. Publishers are required to file an Intent to Participate form with the SDE by the assigned date in March each year in order to receive a full textbook submission packet.

D. Publishers are required to provide proof of registration with the Louisiana Secretary of State's Office in order for contracts to be legally negotiated. It is the *responsibility of the publisher* to ensure that proper forms are completed and that the company is registered according to state laws and regulations.

E. Publishers are encouraged to submit such documentation along with the return of the Intent to Participate form. However, publishers may submit the verification at a later date, but no later than October 1 of each year. Under no circumstances will a contract be negotiated with a publisher without such documentation.

F. Publishers are required to provide the name, address, telephone, fax number, and electronic mail address, if applicable, of one local representative and one corporate

representative of the company. The designated representatives should be those officials who are authorized to speak on behalf of the company within the State of Louisiana, and at the corporate level, are authorized to enter into contract agreements with the Department of Education/BESE. Such information shall be *submitted with the Notice of Intent to Participate form* to be submitted each year by interested publishers.

G. Publishers are required to *provide written notification* to the Office of Student and School Performance of changes in agents or representatives, addresses or phone numbers. *No more than two (2) names and addresses may be designated to receive information at any one time for any one person, firm, corporation or organization.*

H. Publishers who are interested in submitting textbooks and materials of instruction for consideration are *required to have representation at the Orientation*, to be scheduled annually by the SDE. Failure to have representation will result in disqualification of the publisher.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1446 (August 1999).

§703. Publishers' Formal State Textbook and Materials of Instruction Submission

A. Publishers shall submit a formal response on state developed forms.

1. State Submission Forms for Textbooks and Materials of Instruction

a. Publishers must submit the *Intent to Participate Form* by the prescribed deadline each year in order to receive the Invitation Circular Letter and accompanying state textbook submission packet.

b. All state forms must be fully and accurately completed. Publishers' submission forms must clearly state each book or series of books the publishing company intends to offer in the appropriate subject area and grade level.

c. All submissions must be received in the Office of Student and School Performance, Department of Education building, by *4:30 p.m. on the date specified each year*. There will be *no* exceptions.

d. Failure to complete all required information on the submission form may result in disqualification of the publisher.

e. Publishers are required to submit detailed *manufacturing standards* on each book listed on the state submission forms. Manufacturing standards must be submitted *along with the submission forms*.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1447 (August 1999).

§705. Notification of Required Hardware, Software, Special Equipment Needed by State Textbook Adoption Committee Members to Review Textbooks and Materials Submitted by Publishers

A. Publishers are required to submit in writing to the SDE by the designated time each year, a detailed list of *hardware, software, and any special equipment* which may

be needed by State Textbook Adoption Committee members for review of textbooks and materials of instruction.

B. Publishers *will be* responsible for costs associated with rental of needed equipment by State Committee members, if other means are not available to the member. Publishers will be billed by the SDE for rental of such equipment.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1447 (August 1999).

§707. Submission of Correlations to State-Approved Content Standards/Curriculum Guides

A. Publishers are required to submit in writing detailed *correlations to State Content Standards/Curriculum Guides*, for subject/content areas under adoption by the specified time each year.

B. Specific requirements shall be issued by the SDE regarding the format and methods to be used in preparing and reporting of correlations.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1447 (August 1999).

§709. Textbook Samples for Review by State Textbook Adoption Committee Members and State Citizens

A. Publishers are *required to place a fixed label on the outside of each book* to be mailed to Committee members or to Public Review sites. Each label shall clearly identify the following, in this order:

1. traditional; non traditional; thematic;
2. subject area which corresponds to the state bid form;
3. applicable grade level;
4. title;
5. teacher or student edition;
6. publisher; and
7. copyright date.

B. A checklist of titles should be enclosed with each box.

1. The checklist should include the following, in this order:
 - a. book title;
 - b. corresponding state bid subject area;
 - c. applicable grade level;
 - d. teacher or student edition;
 - e. publisher; and
 - f. copyright date.
2. In addition, a list of *all textbooks* submitted for state adoption is required in order to determine whether total shipments from the publisher have arrived.

C. Publishers *shall not provide any item of value*, no matter how insignificant, to State Committee members (i.e.. NO mugs, book bags, pens, or other token of appreciation) when samples are distributed. *no brochures or marketing information shall be included with shipments*.

D. Publishers shall send appropriately labeled samples of all basal and teachers' editions listed on submission forms to *location(s) designated by the Department of Education*.

E. Publishers should obtain a returned signed receipt as verification that *all* titles submitted for state review have

been received at designated location(s). Publishers shall be responsible for ensuring that books are received at designated location(s) for subsequent review by State Textbook Adoption Committee members. A summary check list that corresponds with materials submitted for review is required in addition to individual packing lists.

F. If samples are *not received* by the SDE-specified deadline, or are not of sufficient quantity for distribution, the book *shall be disqualified* from the adoption process.

G. The publisher will have the responsibility of making arrangements to have materials picked up from the Committee members at the conclusion of the voting process. If the publisher fails to make the necessary arrangements within 30 days after the adoption, the materials will become the property of the Committee members.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1447 (August 1999).

§711. Submission of Galley Proofs

A. Galley proofs may be submitted to designated location(s) as samples for review by State Committee members *provided that the finished books will be available by the date specified by the SDE each year.*

B. A *galley proof* shall be defined as the *final bound* manuscript set in type with all corrections made and the elements of the pages arranged in their final form [i.e., only book binding required for completion].

C. In the case of galley submissions, publishers *must* also submit detailed manufacturing standards which will be used when the final book is published.

D. Publishers shall pick up galleys from the designated public review sites and replace them with finished books prior to the State Caravan.

E. Any new or updated editions of the originally adopted book must be provided to the state of Louisiana at the same price and terms as stipulated in the bid form and state contract. Updated *editions or additions to complete a series previously adopted must be submitted to the SDE for review and recommendation to BESE by the specified time each year.*

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1448 (August 1999).

§713. Samples for Public Review

A. *Publishers* are required to supply an adequate quantity of textbooks/materials of instruction for placement at the public review sites.

B. The SDE shall arrange sites for public display of proposed textbooks and shall provide a written form for public comment. Copies of basal textbooks being considered for adoption shall be placed in cooperating public libraries in those cities named in La. R.S. 17:415.1: New Orleans, Baton Rouge, Shreveport, Monroe, Alexandria, Lake Charles, Lafayette and Houma, with the addition of Natchitoches. Public libraries must be contacted initially for use of their facilities for public display, and if they are unable to accommodate the display, the State Department of Education may select an alternate site.

C. Publishers shall pick up galleys from the designated regional library/ public review sites and replace them with finished books prior to the State Caravan.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1448 (August 1999).

§715. Role of the Publisher During State Committee Review

A. The SDE shall inform all publishers submitting an Intent to Participate form of the names of appointed State Committee members. Publishers shall have *no personal contact* with the State Committee members once names of Committee members are released by the SDE *and until such time as the state adoption process has been completed.*

B. Personal contact shall be defined as any one-on-one, written, or third parties contact, other than the presentation of materials or provision of SDE requested materials at state-requested or conducted textbook adoption proceedings.

C. Publishers shall not attempt to influence the deliberations or vote of a Committee member, either directly or through third parties. *Violations of this requirement will result in immediate disqualification of the publisher.*

D. Publishers shall provide nothing of value to any committee member at any time during, or after the adoption process.

E. Publishers shall be required to file written affidavits regarding any contact with State Textbook Adoption Committee members AND with State Board of Elementary and Secondary Education members.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1448 (August 1999).

§717. Written Questions and Responses to Questions Regarding Textbooks Under Consideration

A. Each State Textbook Adoption Committee member may formulate and prioritize relevant questions to be addressed by publishers on each book under consideration for adoption. Questions shall be forwarded to the SDE by each Committee member on forms prescribed for such purpose by a date to be determined by the SDE.

B. *Questions* may address the physical characteristics and layout, factual content of the book, relationship to state content standards and assessment, organization, presentation and sequencing of content, and any other area specified for evaluation on the state evaluation form. Questions *may not address* items contained on the Ancillary Materials Bid Form, Free Materials Bid Form, including in-service offerings. Questions will be forwarded to publishers.

C. Written responses shall be developed by publishers according to SDE instruction. Failure to respond according to the specified time line will disqualify the book for consideration of adoption.

D. *Responses* by publishers *may not address* items contained on the Ancillary Materials Bid Form, Free Materials Bid Form, including in-service offerings.

E. Sufficient copies of the *written responses* shall be forwarded to the SDE by respective publishers according to the specified time each year. The SDE shall be responsible

for forwarding copies of the written responses to State Committee members.

F. All meetings of the textbook adoption committees *shall be open to the public*. The SDE shall post official public notice of all meetings of the State Textbook Adoption Committee.

G. Each publisher shall be invited to a question/answer session during which time State Committee members may seek further clarification to written responses provided by publishers or pose additional questions for publishers' response. Publishers shall be allowed to discuss how their basal and teacher's editions align with the state content standards and assessment program. *Publishers may not address ancillary or free materials proposed for addition after SBESE approval of basal.*

H. Publishers shall be allocated a maximum time period for the question/answer session, as specified by the SDE.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172;236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1448 (August 1999).

§719. Publisher Conduct During the State Caravan

A. Publishers *shall not* provide any item of value, no matter how insignificant to State committee members (i.e., NO mugs, book bags, pens, or other tokens of appreciation) when samples are distributed. *No brochures or marketing information shall be included with shipments.*

B. Publishers shall NOT solicit names or make requests related to samples.

C. No sample books are to be removed from the Caravan.

D. Publisher fees will be collected to cover costs of refreshments at each location.

E. Folders of product information may be offered.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1449 (August 1999).

§721. Obligations to Provide Textbooks and Materials of Instruction within Prescribed Time Periods

A. Publishers must ensure that textbooks are delivered to local school systems within 90 days of the end of the appropriate ordering cycle as specified. The SDE may authorize fines on textbook publishers who fail to deliver ordered materials within the 90 day time line. Said fine shall equal 1 percent of the outstanding balance for any order that has not been received by the local school system within 90 days after the closing date of the appropriate ordering cycle.

1. State Contract for Adopted Textbooks and Materials of Instruction

a. The State Board of Elementary and Secondary Education, at its meeting of June 28, 1990, exercised those powers conferred by the emergency provisions of the

Administrative Procedure Act, R.S. 49:953B, and approved the following amendments to textbook adoption procedures, *effective June 28, 1990*:

In the 1990-91 adoption and all other adoptions thereafter, all titles approved through the state textbook adoption process will carry a definite contract not to exceed seven years.

b. The state textbook adoption shall be limited to Basal Textbooks and Teacher's Edition only. Ancillary materials will carry a fixed cost for the life of the contract. Free materials, included in the formal submission by publishers, must clearly indicate period of availability, if other than the seven-year contractual period.

c. Publishers with materials under contract with the State of Louisiana may add materials during the specified time each year. The *addition* can be only textbooks that complete an adopted series, ancillary materials that accompany an adopted basal program, or a new copyright edition of an adopted textbook. If a new copyright edition is requested for addition it *must* be priced as the same cost of the copyright edition under contract. At any time during the life of this contract, if the publisher should charge less to others for materials under contract, publisher agrees to reduce the price to the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1449 (August 1999).

§723. Braille Accessibility (R.S. 17:1985; SCR 15 of 1997; SCR 149 of 1997)

A. SCR15, of the 1997 Regular Session, requires the State Board of Elementary and Secondary Education (SBESE) to coordinate a statewide system of providing braille books to visually impaired students by tracking braille books already available and supplying funds for those needed. In addition, SCR 149, of the 1997 Regular Session, provides for *access and use of technology* by blind and visually impaired students.

B. Publishers shall furnish, within 90 days of state adoption, to the American Printing House for the Blind computer diskettes for state-adopted literary subjects in an electronic text file from which braille or large print versions can be produced. Files will be used by blind or visually impaired students in Louisiana. Electronic text files for nonliterary subjects, including natural science, computer science, mathematics, and music must be provided when braille specialty code translation software is available.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1449 (August 1999).

Chapter 9. Appendix A

Note: Forms contained in the Appendix are subject to revision by SDE.

§901. Adoption Cycle

**Louisiana State Textbook Adoption Cycle:
Core Subject Areas Are Adopted Every Seven Years.**

1998-99	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005
Social Studies K-12	Language Arts K-8	Language Arts 9-12	Vocational Agricultural	Science K-12	Foreign Language	Math K-12
	Grades 6-12 Literature	Reading K-8	Business Education	Health and Physical Education	Handwriting Music/Fine Arts	Computer Science
	Computer Literacy		Home Economics	Computer Literacy		
			Health Occupations			

NOTE: Separate categories for special education are no longer adopted.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1450 (August 1999).

State of Louisiana
Department of Education
State Textbook Adoption

LOCAL ADOPTION SUBCOMMITTEE MEMBER S AFFIDAVIT

I, _____ (printed name), do hereby certify the following:

A) No representative from any publisher or affiliated company will influence my vote, either directly or through a third party;

B) No item of value, no matter how insignificant, will be accepted from publishers or affiliated companies once selected by the State Adoption Committee Member. Items of value shall include money, trips, meals, mugs, book bags, pens and any other item of value or token of appreciation.

In the event that I have within the *last year* taken any item of value from a publisher submitting materials for adoption, I shall immediately (*within 10 days*) inform the State Adoption Committee Member in writing of such gift. The written correspondence shall describe the nature of the gift and shall be mailed to the LDE Textbook Administrator;

C) I assure the Department that I have no affiliation or business arrangement with any Publisher or its affiliated company.

In the event that I have within the *last year* had an affiliation with or any business arrangement with a publisher submitting materials for adoption, I shall immediately (*within 10 days*) inform the State Adoption Committee Member in writing of such relationship. The written correspondence shall describe the nature of the business arrangement or affiliation and shall be mailed to the LDE Textbook Administrator;

D) I assure that I will comply with all directives of the State Board of Elementary and Secondary Education and the LDE regarding materials to be provided and procedures to be followed during the State Textbook adoption process;

Signature of Local Adoption Subcommittee Member

Date

Note: REQUIRED FORM: -- To be collected by State Committee Member

Revised 1998

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1451 (August 1999).

State of Louisiana
Department of Education
State Textbook Adoption

STATE ADOPTION COMMITTEE MEMBER'S AFFIDAVIT

I, _____ (printed name), do hereby certify the following:

A) No representative from any publisher or affiliated company will influence my vote, either directly or through a third party;

B) No item of value, no matter how insignificant, will be accepted from publishers or affiliated companies once the Louisiana Department of Education (LDE) discloses the names of the State Committee members. Items of value shall include money, trips, meals, mugs, book bags, pens and any other item of value or token of appreciation.

In the event that I have within the *last year* taken any item of value from a publisher submitting materials for adoption, I shall immediately (*within 10 days* of naming the State Textbook Adoption Committee) inform the LDE of such gift. The written correspondence shall describe the nature of the gift and shall be mailed to the LDE Textbook Administrator;

C) I assure the Department that I have no affiliation or business arrangement with any Publisher or its affiliated company. In the event that I have within the *last year* had an affiliation with or any business arrangement with a publisher submitting materials for adoption, I shall immediately (*within 10 days* of naming the State Textbook Adoption Committee) inform the LDE in writing of such relationship. The written correspondence shall describe the nature of the business arrangement or affiliation and shall be mailed to the LDE Textbook Administrator;

D) I assure that I will comply with all directives of the State Board of Elementary and Secondary Education and the LDE regarding materials to be provided and procedures to be followed during the state textbook adoption process;

E) I assure the Department that I will attend two mandatory meetings, the orientation to be held _____ and full committee review _____.

(Date)

(Date)

Signature of State Adoption Committee Member

(Date)

NOTE: REQUIRED FORM: Return to LDE by _____.

Attn: Jackie Bobbett
626 N. 4th Street, Room 740
Baton Rouge, LA 70802
PH: (225) 342-3599
FAX: (225) 342-3463

Revised 1998

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1452 (August 1999).

State of Louisiana
 Department of Education
 State Textbook Adoption

LOCAL ADOPTION SUBCOMMITTEE MEMBER'S AFFIDAVIT

I, _____ (printed name), do hereby certify the following:

- A) No representative from any publisher or affiliated company will influence my vote, either directly or through a third party;
- B) No item of value, no matter how insignificant, will be accepted from publishers or affiliated companies once selected by the State Adoption Committee Member. Items of value shall include money, trips, meals, mugs, book bags, pins, and any other item of value or token of appreciation. In the event that I have in the *last year* taken any item of value from a publisher submitting materials for adoption, I shall immediately (*within 10 days*) inform the State Adoption Committee Member in writing of such gift. The written correspondence shall describe the nature of the gift and shall be mailed to the LDE Textbook Administrator;
- C) I assure the Department that I have no affiliation or business arrangement with any Publisher or its affiliated company. In the event that I have within the *last year* had an affiliation with or any business arrangement with a publisher submitting materials for adoption, I shall immediately (*within 10 days*) inform the State Adoption Committee Member in writing of such relationship. The written correspondence shall describe the nature of the business arrangement or affiliation and shall be mailed to the LDE Textbook Administrator;
- D) I assure that I will comply with all directives of the State Board of Elementary and Secondary Education and the LDE regarding materials to be provided and procedures to be provided and procedures to be followed during the State Textbook adoption process.

 Signature of Local Adoption Subcommittee Member

 Date

Note: REQUIRED FORM: -- To be collected by State Committee Member

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1453 (August 1999).

**Chapter 17. Appendix E
 §1701. Public Comment Form**

State of Louisiana
 Department of Education
 Division of School Standards, Accountability, and Assistance
 1998 State Textbook Adoption
PUBLIC COMMENT FORM

Forms must be typed or neatly printed. A separate form should be completed for each textbook.

The State is currently considering textbooks and materials of instruction for social studies classrooms, grades K-12. This form is intended to allow Louisiana citizens to make comments regarding those textbooks under consideration.

Publisher: _____ Subject Area: _____
 Title: _____ Author: _____
 Grade Level: _____ Copyright: _____ Name of person making comment: _____
 Address: _____ Area Code/Telephone Number: Home () Work: ()

Parish of Residence: _____

Do you represent: Yourself An Organization (Name): _____

Do you have children of school age? Yes No;

If yes, what type of school do they attend? Public Non-Public (Receive State Funds) Non-Public (Does not Receive State Funds)

I would like to present my comments in the form of an oral presentation before the state committee(s) involved with adoption.

The following information must be completed:

I object to the following materials in this textbook. Please be specific, i.e. cite passages, pages, ideas, pictures, chart, copyright, etc. (Please use additional sheets if needed.)

Have you personally reviewed the material in its entirety? Yes No Segments Only
 Is your objection to this material based upon: Personal exposure? Reports you have heard? Both?
 Are you in anyway affiliated with a publishing company presenting material for adoption? Yes No
 Would the publication have merit if the objectionable pages were removed? **Explain:**

Signature

Date

**Form must be returned by 4:30 p.m. December 28, 1998 to Jackie Bobbett, State Textbook Administrator
 Division of School Standards, Accountability, and Assistance Louisiana Department of Education
 P. O. Box 94064
 Baton Rouge, LA 70804-9064
 FAX: (504) 342-5736**

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1453 (August 1999).

**Chapter 19. Appendix F
 §1901. Notice Of Publisher's Failure To Deliver**

**STATE OF LOUISIANA
 DEPARTMENT OF EDUCATION**

**NOTICE OF PUBLISHER S FAILURE TO DELIVER
 STATE ADOPTED TEXTBOOKS AND MATERIALS OF INSTRUCTION IN
 ACCORDANCE WITH STATE CONTRACTS**

School districts should complete the following form and *submit an original signed copy to the state textbook administrator* in the event that state adopted textbooks and materials of instruction are not delivered within 90 days of the last ordering cycle. Upon approval by the State Department of Education, local school systems may fine a publisher 1 percent of the outstanding balance of delinquent order. State contracts stipulate that failure to deliver textbooks and materials of instruction within 90 days of the last ordering cycle may render state contracts null and void.

Date _____

Name of School District _____ Name of Publisher _____

ISBN NO. _____ Title of Book _____

_____ (Mo/Day/Year)

Date order was placed (attach copy of invoice)

Briefly explain steps taken to date to trace/recover state adopted textbook order:

Signature District Superintendent

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1454 (August 1999).

**Chapter 21. Appendix, State Laws
 §2101. Free School Books**

The legislature shall appropriate funds to supply free school books and other materials of instruction prescribed by

the State Board of Elementary and Secondary Education to the children of this state at the elementary and secondary levels. (Article VIII, Section 13(A) of the Louisiana Constitution of 1984)

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1454 (August 1999).

§2103. Duties, Functions, And Responsibilities Of Board [R.S. 17:7(4)]

The board shall prescribe and adopt free school books and other materials of instruction for the children of this state at the elementary and secondary levels and all other schools and programs under its jurisdiction for which the legislature provides funds, in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1455 (August 1999).

§2105. School Books Prescribed By Board; Contracts With Publishers [R.S. 17:8]

A.(1)(a) The board shall prescribe and adopt and shall exercise control and supervision over the distribution and use of free school books and other materials of instruction for use in elementary and secondary schools and special schools, as provided by Part IV of Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, and shall adopt necessary rules and regulations governing their use by schools, parish and city school boards, and parish and city superintendents of education. Such rules and regulations shall include but not be limited to a requirement that each parish and city school board shall adopt by not later than the beginning of the 1991-1992 school year procedures permitting any public school student to have use after regular school hours during the week and on weekends of any school book used to teach reading. Any public school student using any school book pursuant to the provisions of this Subsection shall be responsible for such school book. These procedures shall not be applicable to basal readers and programs.

(b)(i) All school students and persons responsible for a student's school attendance shall be accountable for exercising reasonable and proper care for and control over school books and other instructional materials, supplies, and equipment.

(ii) Notwithstanding any law or rule or regulation to the contrary, the governing authority of an elementary or secondary school may withhold the grades of a student who does not reimburse the school or school system for the student's failure to exercise reasonable and proper care for and control over school books or other instructional materials, supplies, and equipment.

(iii) In accordance with the authority granted to the State Board of elementary and Secondary Education by the provisions of this Subsection, the board shall formulate, develop, adopt, and provide for implementation by not later than January 1, 1998, by each governing authority of a public elementary or secondary school of appropriate policies and procedures consistent with the provisions of this Subparagraph, including meaningful sanctions and penalties, to enable school administrators to hold public school students and persons responsible for a student's school attendance accountable for failing to exercise reasonable and proper care for and control over any public school book or other instructional materials, supplies, and equipment.

(c) The board shall adopt lists of basic textbooks and shall adopt one or more lists thereof. It may authorize and approve revised editions of any school book it adopts.

(2) The board may authorize the Louisiana School of Math, Science and the Arts and other parish or city school boards with programs for gifted students to select and purchase textbooks not included on the lists adopted by the board pursuant to the provisions of this Section, provided that such authorization shall be on an ad hoc basis and shall be subject to prior approval by the board. Such purchases may be made using funds appropriated by the legislature for the purchase of textbooks as provided for herein.

B. The board shall prescribe and adopt and shall exercise supervision and control over the distribution and use of school books and other learning materials, supplies, and equipment for post secondary and vocational-technical schools and programs.

C. Each contract with a publisher for school books shall be awarded on a competitive basis. Each such contract shall be made without determinate date of expiration and shall be so made as to run without change until properly terminated. Each contract shall be so made as to authorize either party to terminate it upon ninety days notice. The mode of procedure for the announcement of bids, examining books, and awarding contracts shall be under the control of the board and in accordance with any applicable law.

D. Each contract shall stipulate that the publisher shall automatically reduce the net cost of textbooks in the state when the net cost of the publisher for books covered by the contract are reduced anywhere in the United States, so that no edition of that textbook shall at any time be sold in this state at a higher net cost than that received for that book elsewhere in the United States.

E. Each contract with a publisher shall stipulate that the book or books covered by the contract to be sold in this state shall be identical with the official samples filed with the board with respect to size, paper, binding, print, illustrations, subject matter, and all other particulars which may affect the value of said books. However, during the period of the contract, the board may approve revised editions of an adopted textbook or service at the bid price, which will authorize a publisher to provide such revisions.

F. Each contract with a publisher shall stipulate that whenever five thousand or more copies of a textbook of a single title and edition are to be purchased by the state from a single publishers during a twelve month period which shall be established by the board by rule, not less than eighty percent of the total number of the copies of such book purchased by the state shall be printed and bound by a printer licensed to do business and doing business within the state, provided that the publisher receives a timely bid made according to the publisher's bid-making requirements from such a printer and provided that the printer is able to print and bind such book in accordance with the manufacturer's specifications for state textbooks as promulgated by the state Department of Education and at a cost equal to or less than the unit cost per book for the same number of books made in a otherwise qualified bid by any out-of-state printer bidding on the same work. Whenever two or more printers in this state submit bids which would qualify all of them to print and bind textbooks pursuant to this Section and one such printer is a minority-owned business as defined in R.S. 39:1952(13), the minority-owned business shall be awarded not less than ten percent of the printing and binding required by this Section to be done in this state.

G. The state Department of Education shall be the depository in the state for books for the schools. The superintendent may do all things necessary and proper for the department to function as such depository, including but not limited to the power to enter into contracts or agreements and to acquire property, through lease or purchase, in which the depository is to be located, and to determine the location or locations of the depository. The superintendent may require publishers to maintain a depository in the state or may contract, in accordance with the procedures for the letting of contracts set forth in Part II of Chapter 10 of title 38 of the Louisiana Revised Statutes, with any other public or private agency to act as the depository.

H. The state Department of Education shall require any depository with whom the department does business to provide the department a written summary of all purchase orders for textbooks received by the depository from the department. The depository shall transmit such summary within three business days whenever the department requests it to do so and the department shall make such a request upon the written request of any printer licensed to and actually doing business in Louisiana. Such a summary shall be a public record. The summary shall itemize the total number of copies each book which is the subject of a purchase order, the unit price of each book, the commissions paid to or the discounts received by the depository, and the publishers of each book.

I. The books shall be distributed to the several parish and city school boards from the depository on requisition of the superintendent of education for public elementary and secondary education.

J. (1) The board shall establish a procedure enabling any governing authority of a public elementary or secondary school, effective January 1, 1998, and thereafter, to order and receive textbooks approved by the board directly from textbook publishers. The procedure shall include but not be limited to permitting a public elementary or secondary school governing authority to contract with a textbook publisher and receive any applicable publisher's discount. However, any textbook purchased under the provision of this Paragraph shall be purchased at the same or lower price than such textbook can be purchased from any source other than the publisher.

(2) The board shall adopt necessary rules and regulations in accordance with the Administrative Procedure Act to implement the provision of the Subsection.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1455 (August 1999).

§2107. Sale Of Textbooks No Longer In Use [R.S. 17.8]

A parish or city school board with the prior approval of the State Board of Elementary and Secondary Education, may sell any textbook or library book no longer in use in the school system to any person or entity for private use at a fee established by the parish or city school board. Funds derived from such sale shall be used by the parish or city school board solely for textbook or library book purchases.

If a textbook or library book has been out of use for over a year a parish or city school board may, with the approval of the [State] board, donate said book to any public hospital, any jail or prison, or any public institution, or to any individual for private use free of charge.

Any textbook or library book which a parish or city school board is unable to sell or donate after being out of use in excess of eighteen months, or any textbook or library book which is deemed by said board to be unusable or unsalable shall be disposed of in an appropriate manner. The reproduction of any textbook or library book no longer in use by a parish or city school system and the use of multiple copies of such books by organized groups or by an educational agency or entity is prohibited.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1456 (August 1999).

§2109. Operation Of Public Elementary And Secondary Schools In Accordance with State Law or Policy: Penalties For Violation [R.S. 17:172]

No free school books or other school supplies shall be furnished nor shall any state funds for the operation of school lunch programs, or any other school funds be furnished or given to any elementary or secondary school which violates the provision of this Section.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1456 (August 1999).

§2111. Free School Books and other Materials of Instruction [R.S. 17:351]

A.(1) The State Board of Elementary and Secondary Education shall prescribe and adopt school books and other materials of instruction, which it shall supply without charge to the children of this state at the elementary and secondary levels out of funds appropriated therefore by the legislature in accordance with the requirements of Article VIII, Section 13(A) of the Constitution of Louisiana.

(2) The State Board of Elementary and Secondary Education shall prescribe and adopt those school books and other materials of instruction which accurately reflect the contributions and achievements of people of differing races.

(3) The State Board of Elementary and Secondary Education shall prescribe and adopt those school books and other materials of instruction which promotes an understanding of the history and values of the people of the United States and Louisiana, including the free enterprise system, private property, constitutional liberties values, and traditional standards of moral values.

B. The board also shall prescribe and supply school books and other materials of instruction for use by students attending vocational-technical schools and program under the jurisdiction of the board.

C.(1) The board shall establish rules and procedures for supplying schoolbooks and other materials of instruction approved by the State Board

of Elementary and Secondary Education as required by this Section for children participating in any home study program approved by the board when available. Such rules and procedures shall include but not be limited to a requirement that any school books and other materials of instruction provided pursuant to this Subsection shall be made available only to the child or children of the parent or legal guardian obtaining approval for a home study program.

(2) The board shall provide a copy of such rules and procedures to any parent or legal guardian applying for approval of a home study program.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1456 (August 1999).

§2113. Books, Films, Other School Materials; Screening Required [R.S. 17:352]

A. (1)The State Board of Elementary and Secondary Education, the State Department of Education or either of these shall take such action as is necessary to assure that all school books, films and booklets related thereto, other similar audio-visual devices, and any other similar materials of instruction are thoroughly screened, reviewed and approved as to their content by the State Board of Elementary and Secondary Education and the local parish or city school board concerned.

(2) The State Board of Elementary and Secondary Education or the State Department of Education shall take such action as is necessary to assure that any state committee or other group responsible for screening, reviewing, and evaluating any materials of instruction and computer and related technological equipment and supplies, including but not limited to any group created pursuant to the provision of R.S. 17:415.1, shall contain a membership not less than one-third of which are teachers as defined in R.S. 17:415.1.

B. The State Board of Elementary and Secondary Education shall maintain a copy of all approved textbooks and teaching materials. Such textbooks and teaching materials shall be maintained in the Department of Education for a period of one year following their initial approval and thereafter shall be maintained in the department's book depository during the time they are approved for use in Louisiana's public schools. Such textbooks are teaching materials shall be available for public inspection during regular office hours.

C. The State Board of Elementary and Secondary Education shall adopt rules and regulations to carry out the provisions of this Section.

D. Whoever intentionally violates any provision of this Section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars or by imprisonment for not to exceed six months, or both.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1456 (August 1999).

§2115. Costs Of Administration; Textbooks and Instructional Material Distribution to Nonpublic School Students [R.S. 17:353]

A. Beginning with the 1993-1994 school year, each city and parish school board which disburses school library books, textbooks, and other materials of instruction to nonpublic school students shall submit to the superintendent of education such documentation as he may require to verify the administrative costs incurred by the school board in the disbursement of such books and instructional materials.

B. The verified costs of administration incurred by each city and parish school board shall be paid by the state.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1456 (August 1999).

§2117. Required Reports and Records; Cost Reimbursement to Approved Nonpublic Schools (Reimbursement Of Required Costs) [R.S. 17:361]

The superintendent of education, in accordance with rules and regulations adopted by the Board of Elementary and Secondary Education, shall annually reimburse each approved nonpublic school, for each school year beginning on and after July, 1979, an amount equal to the actual cost incurred by each such school during the preceding school year for providing school services, maintaining records and completing and filing reports required by law, regulation or requirement of a state department, state agency, or local school board to be rendered to the state, including but not limited to any forms, reports or records relative to school approval or evaluation, public attendance, pupil health and pupil health testing, transportation of pupils, federally-funded educational programs including school lunch and breakfast programs, school textbooks and supplies, library books, pupil appraisal, pupil progress, transfer of pupils, teacher certification, teacher continuing education programs, unemployment, annual school data, and any other education-related data which are not or hereafter shall be required of such nonpublic school by law, regulation or requirement of a state department, state agency, or local school board.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1457 (August 1999).

§2119. Applications For Reimbursement [R.S. 17:362]

Each school which seeks reimbursement pursuant to this Part shall submit to the superintendent an application therefore, together with such additional reports and documents as the superintendent may require, at such times, in such form, and containing such information as the superintendent may prescribe in order to carry out the purposes of this Part.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1457 (August 1999).

§2121. Maintenance Of Records [R.S. 17:363]

Each school which seeks reimbursement pursuant to this Part shall maintain a separate account or system of accounts for the expenses incurred in rendering the required services for which reimbursement is authorized by R.S. 17:361. Such records and accounts shall contain such information and be maintained in accordance with regulations adopted by the board, but for expenditures made in the school year 1979-1980, the application for reimbursement made in 1980, pursuant to R.S. 17:361 shall be supported by such reports and documents as the superintendent shall require. In promulgating such regulations concerning records and accounts and in requiring supportive documents with respect to expenditures incurred in the school year 1979-1980, the superintendent shall implement the audit procedures provided in R.S. 17:365. The records and accounts supporting reimbursement for each school year shall be preserved at the school until the completion of such audit procedures.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1457 (August 1999).

§2123. Payment [R.S. 17:364]

No payment to a school shall be made pursuant to this Part until the superintendent has approved the application submitted pursuant to R.S. 17:362.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1457 (August 1999).

§2125. Audit [R.S. 17:365]

No application for reimbursement under this Part shall be approved except upon such audit of vouchers or other documents by the superintendent as is necessary to insure that such payment is lawful and proper.

The legislative auditor may from time to time examine, in accordance with the provision of R.S. 24:513, any and all accounts and records of a school which have been maintained pursuant to this Part in support of an application for reimbursement for the purpose of determining the cost to such school of rendering the services referred to in R.S. 17:361. If after such audit it is determined that any school has received funds in excess of the actual cost of providing such services, such school shall immediately reimburse the state in such excess amount.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1457 (August 1999).

§2127. Materials; Adoption Procedures [R.S. 17:415.1]

A. Any interested citizen may request that his name be included on the mailing list for textbook adoption information by writing to the Director of the Bureau of Materials of Instruction and Textbooks, State Department of Education, Capitol Station, Baton Rouge, Louisiana. Any person who has made this request shall be timely notified of the name and address of each member of all textbook adoption committees and the Textbook and Media Advisory Council, the times, places, and agenda of all committee and council meetings, and the titles, authors, and publishers of all textbooks proposed for adoption.

B. (1) All textbook adoption committees appointed by the superintendents of elementary and secondary education shall contain a membership not less than one-third of which are teachers, not less than one-third of which are parents who are not public educators, and the remainder of which are other persons. All meetings of textbook adoption committees and the Textbook and Media Advisory Council shall be open to the public. Any member of the public may attend and file written or make oral objections to any textbook under consideration. The State Board of Elementary and Secondary Education shall adopt a form whereby any member of the public may file written objections to any textbook being considered for adoption.

(2) For purposes of this Subsection, the term "teacher" shall mean any persons employed by a city or parish school board who, as a condition of employment, is required to hold a valid teaching certificate issued by the Department of Education.

C. During the period commencing on September 1 and ending December 31 of each year, all textbooks being considered for adoption shall be placed by the Department of Education in a cooperating public library in New Orleans, Baton Rouge, Shreveport, Monroe, Alexandria, Lake Charles, Lafayette, Houma, and any other city designated by the superintendent of elementary and secondary education. Any interested person may inspect and review the books during the period when they are on display.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1457 (August 1999).

§2129. SCR 15 of 1997, Regular Session

The Legislature of Louisiana urges and requests the State Board of Elementary and Secondary Education to coordinate a statewide system of providing braille books to visually impaired students by tracking the braille books already available and providing funding for those books which are needed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1457 (August 1999).

§2131. SCR 149 of 1997, Regular Session

The Legislature of Louisiana hereby urges and requests that information technology programs and activities of the state which are supported in whole or in part by public funds incorporate aspects which facilitate access to and use of such technology by the blind and visually impaired. In addition, the Louisiana Data Base Commission and other state entities involved in the development of information technology adopt guidelines which shall ensure the following, to the extent feasible,

(1) That information technology, equipment, or software used by employees or program participants who are blind or visually impaired can present information for effective, interactive control and use by both visual and non-visual means; is compatible with equipment and software used by other individual with whom the blind or visually impaired must interact; and can be integrated into the network or networks used to share communications among employees or program participants.

(2) That information technology used in the dissemination of services to the public provides blind or visually impaired individuals with access, including interactive use of equipment and services, which is equivalent to that provided to individuals who are not blind or visually impaired; and that such information technology is designed to present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use.

(3) That the procurement of information technology, whether through contract or agreement, shall be accomplished so as to provide equivalent access for effective use by both visual and non-visual use; and can be integrated into networks for obtaining, retrieving, and disseminating information used by individual who are not blind or visually impaired.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1458 (August 1999).

§2133. Books for School; Special Plates [R.S. 47:463.46]

A. The Secretary of the Department of Public Safety and Corrections shall establish a prestige license plate for motor vehicles, restricted to passenger cars, pickup trucks, and vans for the purpose of promoting support for elementary and secondary education. The Secretary shall determine the design of the special prestige license plate issues under the provisions of this Section, provided such design shall bear the words "Helping Schools" and include a logo which is a symbol for reading programs in education.

B. The prestige plate shall be issued upon application to any citizen of Louisiana in the same manner as any other motor vehicle license plate.

C. The charge for this special license plate shall be \$25.00 annually in addition to the regular fee charged under the provisions of R.S. 47:463.

D. The revenue from the additional \$25.00 fee imposed by Subsection C of this Section, shall be deposited immediately upon receipt into the state treasury. After compliance with the requirements of Article 7, Section 9(B) of the Constitution of Louisiana relative to the Bond, Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited shall be credited to the State Board of Elementary and Secondary Education and shall be used solely for the purchase of textbooks to be used in approved elementary and secondary schools of the State. The monies in this fund shall be invested by the state treasurer in the same manner as monies in the state general fund.

E. The superintendent of the Department of Education shall promulgate rules and regulations as necessary to implement the provisions of this Subsection relative to the purchase and distribution of textbooks.

F. The secretary shall promulgate rules and regulations to implement the provisions of Subsections A, B, C and D of this Section.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1458 (August 1999).

Weegie Peabody
Executive Director

9908#050

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Leveraging Educational Assistance
Partnership (LEAP) Eligibility
(LAC 28:IV.301, 1301-1305, 1901, 1903)

The Louisiana Student Financial Assistance Commission (LASFAC) hereby amend rules of the Leveraging Educational Assistance Partnership (LEAP) Program, formerly State Student Incentive Grant (SSIG) Program (R.S. 17:3032.5).

Title 28 EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

* * *

Substantial Financial Need for purposes of the LEAP (formerly SSIG) program only, substantial financial need is the difference between the student's cost of attendance and the sum of that student's expected family contribution (EFC), plus other student aid the student is due to receive. The difference thus computed must exceed \$199.

* * *

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 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:, LR 25:1458 (August 1999).

Chapter 13. Leveraging Educational Assistance Partnership (LEAP) Program [formerly State Student Incentive Grant (SSIG) Program]

§1301. General Provisions

A. - A.2.c. ...

B. Description, History and Purpose. The Louisiana Leveraging Educational Assistance Partnership (LEAP) Program, first funded in 1975, provides need-based grants to academically qualified students using federal and state funds. These grants are to be used for educational expenses including tuition and fees, books and supplies, and living expenses, such as room, board and transportation.

C. Louisiana administers a decentralized LEAP Program. Certain functions of the program are delegated to participating schools. Schools approved for participation in the Louisiana LEAP Program must have federal eligibility and must annually submit a state application and be approved for state participation. Funding available for a specific award year is allocated to eligible in-state

postsecondary institutions who select and certify recipients to LASFAC. LASFAC forwards award funding to the institutions for disbursement to the student or student's account.

D. ...

E. Allocation of Funds. Annually, funds are allocated to postsecondary institutions based on school type, the school's prior year first-time, full-time enrollment and the amount of the prior year's allocation that was expended. Initial funds, for first-time recipients, are computed as a percentage of all participating institutions first-time, full-time enrollment as of October 10 of the prior fiscal year. A student's enrollment in an undergraduate degree granting school which is a component of a state supported medical center, shall be a first-time, full-time freshman for the purpose of this program. Continuation funds for students who had previously received LEAP are computed as a percentage of the allocated funds used during the previous year. The continuation formula applies 60 percent for four year schools and 40 percent for two-year schools.

F. ...

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 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1458 (August 1999).

§1303. Establishing Eligibility

LEAP applicants must meet all of the following criteria:

1. - 4. ...

5. be selected and certified by the school for receipt of an LEAP award, contingent upon final approval by LASFAC; and

6. meet any additional selection criteria established by the individual institution participating in the LEAP Program; and

7. - 12. ...

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 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1459 (August 1999).

§1305. Maintaining Eligibility

To continue receiving an LEAP Award, the recipient must meet all of the following criteria:

1. - 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 24:642 (April 1998), amended LR 24:1911 (October 1998), LR 25:1459 (August 1999).

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1901. Eligibility of Postsecondary Institutions to Participate

A. Undergraduate degree granting schools which are components of Louisiana public university medical centers and two- and four-year public colleges and universities are authorized to participate in the Tuition Opportunity Program for Students (TOPS), Rockefeller State Wildlife Scholarship, Leveraging Educational Assistance Partnership (LEAP) Program and the T. H. Harris Scholarship.

B. Regionally accredited private colleges and universities which are members of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU) are authorized to participate in TOPS and LEAP. As of November 1997, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, Our Lady of the Lake College of Nursing and Allied Health, Our Lady of Holy Cross College, Tulane University and Xavier University.

C. Campuses of Louisiana Technical College are authorized to participate in TOPS-TECH and LEAP.

D. Approved Louisiana proprietary and beauty schools are authorized to participate in LEAP only.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999).

§1903. Responsibilities of Postsecondary Institutions

A. - B.7.d. ...

C. Annual Application for Participation in, and Certification of Recipients of the LEAP Program

1. Annually, LASFAC forwards LEAP institutional participation agreements to those schools participating in the program during the prior award year, and upon written requests received, to schools not participating in the LEAP Program during the prior award year. To be eligible for allotment of LEAP funds the institution must meet all of the following requirements:

a. complete and return the annual LEAP application by the specified deadline; and

b. certify that students and parents will not be charged a fee for the collection of information used to determine the student's eligibility for LEAP; and

c. certify that students listed on the recipient roster meet federal, state and institutional specific LEAP eligibility criteria; and

d. certify that if the institution's LEAP allotment is based in part on the financial need of independent students, as defined by the U.S. Department of Education, a reasonable portion of the institution's allotment is being made available to independent students; and

e. certify that each LEAP recipient's total package of aid does not exceed the student's financial need; and

f. certify that LEAP funds recovered from over awards, refunds, and/or repayments, as defined in §301, during the applicable award period shall be returned to LASFAC to be reissued to other qualified students. Funds recovered from over awards, refunds and/or repayments after the applicable award period shall be returned to LASFAC for return to the U.S. Department of Education and/or the state of Louisiana. The amount of over award, refund and/or repayment shall be determined according to the school's policy established in accordance with federal regulations.

2. Annually, LASFAC provides eligible institutions an official allotment schedule, recipient roster and institution certification forms. Institutions are required to:

a. complete and return recipient rosters and institutional certification forms to ensure expenditure of allotted LEAP awards by the school specific deadlines of November 1 for public and LAICU member two- and four-year colleges and universities and January 1 for campuses of Louisiana Technical College and proprietary institutions; and

b. submit changes to the recipient roster by completing a replacement roster, provided by LASFAC; and

c. certify that if any LEAP funds are released in error to ineligible students, the institution will either recover the award amount from the students and refund to LASFAC or remit the refund due.

D.1. - D.2.b. ...

3. release award funds by crediting the student's account within 14 days of the institution's receipt of funds or disbursing individual award checks to recipients as instructed by LASFAC. Individual award checks for the T. H. Harris Scholarship, Rockefeller State Wildlife Scholarship, TOPS Teacher Award and LEAP must be released to eligible recipients within 30 days of receipt by the school or be returned to LASFAC.

E. - F. ...

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 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999).

Jack L. Guinn
Executive Director

9908#001

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS) Higher Education Scholarship and Grant Programs (LAC 28:IV.301)

The Louisiana Student Financial Assistance Commission (LASFAC) hereby amends rules of the Tuition Opportunity Program for Students, LAC 28:IV.

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

Merit Ranking Formula—a mathematical equation incorporating selected merit factors which is used to rank eligible applicants in the priority by which competitive scholarships are to be awarded. As of July 1, 1997, the TOPS Teacher Award and Rockefeller State Wildlife Scholarship are the only programs in which applicants are competitively ranked. The following formulas for the merit ranking of scholarship applicants provide for the equating of scores for high school graduating seniors and college students.

a. Formula I applies to applicants for the Rockefeller State Wildlife Scholarship with less than 24 hours of graded college credit and to applicants for the TOPS Teacher Award with less than 48 hours of graded college credit:

$$\text{Merit Score} = \left(\left(\frac{\text{HSGPA}}{4.00} \right) \right) \times 60 + \left(\left(\frac{\text{ACT}}{36} \right) \times 40 \right)$$

b. Formula II applies to applicants for the Rockefeller State Wildlife Scholarship with 24 or more hours of graded college credit and to applicants for the TOPS Teacher Award with 48 or more hours of graded college credit:

$$\text{Merit Score} = \left(\left(\frac{\text{College GPA}}{4.00} \right) \right) \times 90 + \left(\left(\frac{\text{College Level}}{4} \right) \times 10 \right)$$

c. Formula III applies to applicants for the TOPS Teacher Award. For those applicants majoring in math or chemistry, an additional 10 points are added to the merit score determined by Formula I or II, resulting in an adjusted merit score.

d. Applicants' merit scores are ranked in descending order with the applicant with the highest merit score ranked first. The number of applicants selected for award is dependent upon the amount of award funds available.

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 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:1460 (August 1999).

Jack L. Guinn
Executive Director

9908#003

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Payment Program for Medical School Students (LAC 28:IV.2301-2311, and 2313)

The Louisiana Student Financial Assistance Commission (LASFAC) hereby implements rules for the Tuition Payment Program for Medical School Students (R.S. 17:3041.10-3041.15).

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs Chapter 23. Tuition Payment Program for Medical School Students

§2301. General Provisions

A. Legislative Authority. The Tuition Payment Program for Medical School Students was created by Act 281 of the 1997 Regular Session of the Louisiana Legislature. This bill added R.S. 17:3041.10-3041.15.

B. Description, History and Purpose. The Tuition Payment Program for Medical School Students:

1. annually awards not more than four monetary loans to eligible students who commit to practice the profession of medicine as a primary care physician, as defined herein, for at least four consecutive years in a rural or poor community in Louisiana designated a "rural health shortage area" by the Louisiana Department of Health and Hospitals (hereinafter referred to as a "Designated Area"). When the individual receiving the award practices medicine in a Designated Area for four consecutive years as provided in these rules, the loans are forgiven in full;

2. was first funded for the 1998-99 award year;

3. was created to provide an incentive for Louisiana's medical school students to practice as primary care physicians in a Designated Area.

C. Award Amounts

1. Loans are made in an amount not to exceed the full tuition and room and board amount for students enrolled at one of the medical schools of Louisiana State University.

2. Recipients may receive a maximum of two years of funding.

3. Recipients may receive other financial awards in conjunction with the Tuition Payment Program for Medical School Students.

4. In the event the student's total aid exceeds the Cost of Attendance as defined in §301 of these rules, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the Tuition Payment for Medical School Students shall be reduced by the amount of any remaining over award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1460 (August 1999).

§2303. Establishing Eligibility

A. To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. Citizen and be registered with the Selective Service, if required, unless the institutional Financial Aid Officer determines that failure to register was not willful; and

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV for at least two years prior to April 15 of the calendar year in which the award will be made;

3. submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is applicable to the student, by April 15th of the calendar years in which an award is being sought (for those students applying for the 1998/1999 academic year, the deadline for filing the FAFSA is extended to March 1, 1999);

4. be enrolled and entering the third year of study at one of the LSU medical schools as a full-time student in a course of study leading to a doctorate degree in medicine with the intent to enter a residency program leading to a specialization in a primary care field. A "primary care field" shall include the following fields of medicine: family medicine, general internal medicine, general pediatrics, obstetrics/gynecology or a medical/pediatrics practice;

5. agree to the full time practice of the profession of medicine as a primary care physician in a Designated Area

for at least four consecutive years after graduating from medical school and completing a residency program in a primary care field as defined in §2303.D, above;

6. complete and submit such other documentary evidence as may be required by LASFAC within the deadline specified;

7. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC;

8. not have a criminal conviction, except for misdemeanor traffic violations; and

9. agree that the award will be used exclusively for educational expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999).

§2305. Application Process and Selection Criteria

A. The LSU Medical Center shall seek applications from medical students desiring to apply for a loan under this program and shall determine and report to the Commission, no later than the date specified by the Commission:

1. the academic standing of those applicants who meet the prerequisites of §2303.4 and 5. In determining the academic standing of applicants, the LSU Medical Center shall employ an evaluation system which is equitable to all applicants regardless of the medical school they attend; and

2. those applicants who have demonstrated an interest in primary care medicine through involvement in student activities which are supportive of the future practice of medicine as a primary care physician and which have been identified by the LSU Medical Center and approved by the administrator as meriting the award of extra points in the ranking of applicants.

B. From the list of applicants submitted by the LSU Medical Center, the Commission shall rank the applicants in order of merit and select no more than four individuals to receive the award in any one year (hereinafter "Recipient(s)"). The applicant's order of merit shall be determined by the academic standing of the applicant as reported by the LSU Medical Center and the extra points earned through student activities related to the practice of primary care medicine. The award shall be in the form of a loan to the Recipient as described in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999).

§2307. Award Amount

A. The loan shall not exceed the full cost of tuition plus room and board, as those terms are defined herein, for two academic years.

B. The loan disbursement will be in two increments during each academic year based upon requests for disbursements submitted by the LSU Medical Schools which are consistent in timing with the normal payment of tuition by medical school students.

C. The loans for each of the two academic years are dependent upon sufficient appropriation by the State Legislature. Should the State Legislature fail to appropriate sufficient funds in each year to provide for the amount of the

award agreed to by the Commission and student, the obligation to repay the loan will be remitted.

D. The cost of room and board included in an award under this section shall not exceed the cost allocated to room and board in the calculation of "cost of attendance" determined in accordance with 20 U.S.C. 10871l.

E. Tuition shall not exceed the fees, charges and other costs normally required to be paid by all medical students at the school attended.

F. The specific award amount for each loan shall be that amount stated in the agreement between the student and the Commission and shall not exceed the tuition and room and board charged at the school attended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999).

§2309. Maintaining Eligibility

A. To continue receiving the Tuition Payment for Medical School Students, Recipients must meet all of the following criteria:

1. have received less than two years of funding under the Tuition Payment for Medical School Students;
2. be considered in good standing by the LSU Medical Center and continue to make satisfactory progress towards a medical degree in a primary care field;
3. continue to enroll each subsequent term as a full-time student, unless granted an exception for cause by LASFAC, in a course of study leading to a degree in medicine;
4. annually apply for federal and state student aid by completing the FAFSA or Renewal FAFSA, whichever is applicable to the student, by the state deadline;
5. have no criminal convictions, except for misdemeanor traffic violations; and
6. be in compliance with the terms of all other federal and state aid programs which the student may be receiving and which are administered by LASFAC.

B. Upon graduation from medical school, an award Recipient will be continued in a deferred payment status under the terms of the Tuition Payment Program for Medical Students Promissory Note ("Promissory Note") as long as the Recipient is enrolled in a residency program leading to a medical specialty in a primary care field. The Recipient shall notify LASFAC of the place and duration of the Recipient's residency program no later than the Recipient's date of graduation from medical school. The notice shall include an endorsement from the LSU Medical Center or its designee that the residency program is a program that will lead to the ability to practice as a primary care physician as defined herein. The LSU Medical Center shall make available to the Recipient a list of Designated Areas. The Recipient shall identify the Designated Area in which the Recipient intends to practice medicine and include this selection in the notice sent to LASFAC. By July 30 of each year after graduation from medical school, the Recipient shall notify LASFAC of the Recipient's current address and include in such notice an endorsement from an appropriate official of the residency program in which the Recipient is engaged that the Recipient is making satisfactory progress in the program. The Recipient shall notify LASFAC in writing of the completion

of the residency program and the date the Recipient will initiate practice in a Designated Area. Each year thereafter, on the anniversary of the date the Recipient enters a primary care practice in a Designated Area, the Recipient shall send a written confirmation to LASFAC that the Recipient has practiced medicine during that year as required under the terms of the Promissory Note. The written confirmation shall be in the form of an affidavit executed before a notary public and shall be endorsed by the Louisiana Department of Health and Hospitals, affirming that the Recipient has practiced in a Designated Area. Failure of the Recipient to send any of the notices required under the terms of the Promissory Note in a timely manner shall cause the Recipient to be placed in a repayment status.

C. Students who fail to maintain eligibility for the second year of the loan will be placed in a repayment status within six (6) months of their loss of eligibility, unless granted an exception for cause by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1462 (August 1999).

§2311. Completion of Promissory Note and Acceptance of Award

Prior to receiving an award, the Recipient must agree to the terms and conditions contained in and execute the Tuition Payment Program for Medical Students Promissory Note ("Promissory Note"). The Promissory Note obligates the Recipient to initiate a primary care practice in a Designated Area upon the completion of a primary care residency program. The Recipient shall complete the primary care residency program within four years of the date of graduation from medical school and shall initiate the full time practice of medicine as a primary care physician in a Designated Area within six (6) months from the date of completion of the residency program. The Designated Area in which the Recipient initiates practice shall be that area designated in the notice required by §2309.B, above, or such other Designated Area chosen by the Recipient, with the concurrence of LASFAC, upon completion of the residency program. The Promissory Note shall provide that if the area chosen in the notice provided for in §2309.B, above, is no longer an area designated a "rural health shortage area" by the Louisiana Department of Health and Hospitals at the time the Recipient finishes the residency program, it shall continue to be considered a Designated Area for purposes of discharge of the loan amount under these rules. The Recipient shall be deemed to be in a full time primary care practice if the Recipient performs direct patient care for an average of at least 36 hours per week in a normal annual work schedule. Should a Recipient fail to enter into the practice of medicine on a full time basis as a primary care physician within the time specified herein, the loan shall be placed in a repayment status and repaid together with all accrued interest and any collection costs incurred by the Commission, as specified in the Promissory Note.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1462 (August 1999).

§2313. Discharge of Obligation

A. The loan may be discharged by engaging in a full time primary care medical practice in a Designated Area for a period of four years, by monetary repayment or by cancellation.

B. Discharging the loan by entering into the full time practice as a primary care physician in a Designated Area is accomplished by:

1. completing a residency in a primary care field of medicine within four (4) years of the graduation from medical school; and

2. practice as a primary care physician on a full time basis for a period of at least four consecutive years in a Designated Area.

C. Recipients who fail to complete the medical practice requirements as specified in the Promissory Note shall be required to repay the entire loan obligation in accordance with subsection D, below.

D. Discharging the Promissory Note by Monetary Repayment. Recipients who elect not to discharge the obligation by practicing medicine as required in these rules and the Promissory Note 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. interest shall accrue on the outstanding principal from the date of disbursement to the Recipient, at the rate determined by the Commission and reflected in the Promissory Note, not to exceed the maximum rate of interest which can be legally charged under Louisiana law for such loans. Annually, accrued interest shall be capitalized, meaning added to principal;

2. interest on each disbursement shall accrue from the date of disbursement until repaid, or fulfilled and shall be capitalized annually and at the time the Recipient enters repayment status.

E. Repayment Status

1. The Recipient will enter into a repayment status the first of the month following:

a. determination by LASFAC that the Recipient cannot discharge the loan by practicing medicine as required by these rules and the Promissory Note within the required time period; or

b. the date the Recipient notifies LASFAC that monetary repayment is desired; or

c. six months after LASFAC determines that the Recipient is no longer participating in a residency program in a primary care medical field or has otherwise failed to comply with the terms of the Promissory Note;

2. The amount to be repaid annually will be the greater of:

a. the amount necessary to amortize the loan principal together with capitalized and accruing interest within five (5) years; or

b. \$5,000 per year or the unpaid balance, whichever is less.

3. Recipients in repayment status may have their payments deferred in accordance with §2105.B, Deferral of Repayment Obligation.

4. During the period of time a Recipient is in a deferment status, a Recipient is not required to make payments and interest does not accrue.

5. The period of time for completion of repayment will be extended by a period of time equal to the length of time the Recipient is in deferment status.

D. Cancellation. The obligation to repay any remaining unpaid balance of the Promissory Note shall be canceled in the event either of the following occurs:

1. upon submission to LASFAC of a sworn affidavit from a qualified physician that the Recipient is precluded from gainful employment because of a complete and permanent medical disability or condition; or

2. upon submission to LASFAC of a death certificate or other evidence conclusive under state law, that the Recipient is deceased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1463 (August 1999).

Jack L. Guinn
Executive Director

9908#002

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Emissions (LAC 33:III.5116, 5122, and 5311)(AQ193*)

Editor's Note: Due to reengineering at the Department of Environmental Quality effective July 1, 1999, the Office and Division names have been changed in the Notice of Intent heading and in the Historical Note for each section in this rule. The contents of the Notice and the Rule have not changed.

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality regulations, LAC 33:III.5116, 5122, and 5311 (Log #AQ193*).

This rule is identical to a federal regulation found in 40 CFR Parts 61 and 63, July 1, 1998, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at the address or phone number given below. No fiscal or economic impact will result from the rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule incorporates by reference, additional federal regulations in 40 CFR Parts 61 and 63, National Emission Standards for Hazardous Air Pollutants (NESHAP). These changes will expedite both the EPA approval process and the state implementation of delegation of authority for the NESHAP program. The NESHAP program and the authority for EPA to delegate authority of that program to the state is established in the Clean Air Act Amendments of 1990, Section 112. The State of Louisiana has received delegation of authority from the EPA to implement NESHAP by "straight" delegation (incorporation into the LAC rules as promulgated by EPA without change). Louisiana incorporated certain NESHAP regulations by reference on

July 20, 1998. In agreement with the revised delegated authority mechanism and with EPA grant objectives, the department is now incorporating additional NESHAP regulations by reference. The basis and rationale for this rule is to mirror the federal regulations. If the rule is not adopted, it would be a hindrance to Louisiana's authority to implement the NESHAP program. Louisiana would also fail to meet its 1998/99 EPA grant objectives related to this rulemaking and to delegation revisions.

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

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

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the *Code of Federal Regulations* at 40 CFR part 61, revised as of July 1, 1998, and specifically listed in the following table are hereby incorporated by reference as they apply to sources in the State of Louisiana.

40 CFR 61	Subpart/Appendix Heading
* * *	
[See Prior Text in Subpart A-Appendix C]	

* * *

[See Prior Text in B-C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999).

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR part 63, revised as of July 1, 1998, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the State of Louisiana.

40 CFR 63	Subpart/Appendix Heading
* * *	
[See Prior Text in Subpart A-R]	
Subpart S	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry
* * *	
[See Prior Text in Subpart T]	
Subpart U	National Emission Standards for Hazardous Air Pollutant Emissions: Group 1 Polymers and Resins
* * *	
[See Prior Text in Subpart W-KK]	
Subpart LL	National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants
* * *	
[See Prior Text in Subpart OO-QQ]	
Subpart RR	National Emission Standards for Individual Drain Systems
* * *	
[See Prior Text in Subpart VV]	
Subpart EEE	National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors
Subpart JJJ	National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins
* * *	
[See Prior Text in Appendix A-D]	

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999).

**Chapter 53. Area Sources of Toxic Air Pollutants
Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources**

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR part 63, revised as of July 1, 1998, and specifically listed in the following table are hereby incorporated by reference as they apply to area sources in the State of Louisiana.

40 CFR 63	Subpart/Appendix Heading
* * *	
[See Prior Text in Subpart A-Subpart X]	

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999).

James H. Brent, Ph.D.
Assistant Secretary

9908#021

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

EPA Authorization Package RCRA VII, VIII, and IX
(LAC 33:V.517, 519, 1109, 3001, and 4301)(HW069)

(Editor's Note: Due to reengineering at the Department of Environmental Quality effective July 1, 1999, the Office and Division names have been changed in the Notice of Intent heading and in the Historical Note for each section in this rule. The contents of the Notice and the Rule have not changed.)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.517, 519, 1109, 3001, and 4301 (Log #HW069).

This rule adds the requirement for a registered professional engineer who certifies specific technical data to be a Louisiana registered professional engineer. The universal wastes, lamps and antifreeze, were adopted in a previous regulatory package, but an omission of these wastes was made in LAC 33:V.4301. This rule is correcting the omission. LAC 33:V.3001 is being amended to exclude "conditionally exempt" from conditionally exempt small quantity generators, because Louisiana does not recognize conditionally exempt small quantity generators. The basis and rationale for this rule are to clarify and correct specific requirements within Louisiana's regulations.

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

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 5. Permit Application Contents

Subchapter D. Part II General Permit Information Requirements

§517. Part II Information Requirements (the Formal Permit Application)

The formal permit application information requirements presented in this Section reflect the standards promulgated in LAC 33:V.Subpart 1. These information requirements are necessary in order to determine compliance with all standards. Responses and exhibits shall be numbered sequentially according to the technical standards. The permit

application must describe how the facility will comply with each of the sections of LAC 33:V.Chapters 15-37 and 41. Information required in the formal permit application shall be submitted to the administrative authority and signed in accordance with requirements in LAC 33:V.509. The description must include appropriate design information (calculations, drawings, specifications, data, etc.) and administrative details (plans, flow charts, decision trees, manpower projections, operating instructions, etc.) to permit the administrative authority to determine the adequacy of the hazardous waste permit application. Certain technical data, such as design drawings, specifications, and engineering studies, shall be certified by a Louisiana registered professional engineer. If a section does not apply, the permit application must state it does not apply and why it does not apply. This information is to be submitted using the same numbering system and in the same order used in these regulations:

* * *

[See Prior Text in A - W]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 13:433 (August 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), LR 24:1691 (September 1998), LR 25:436 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1465 (August 1999).

Subchapter E. Specific Information Requirements §519. Contents of Part II: General Requirements

Part II of the permit application consists of the general information requirements of this Section, and the specific information requirements in LAC 33:V.519-549 applicable to the facility. The Part II information requirements presented in LAC 33:V.519-549 reflect the standards promulgated in LAC 33:V.Chapters 15-37. These information requirements are necessary in order for the administrative authority to determine compliance with LAC 33:V.Chapters 15-37. If owners and operators of Hazardous Waste Management facilities can demonstrate that the information prescribed in Part II cannot be provided to the extent required, the administrative authority may make allowance for submission of such information on a case-by-case basis. Information required in Part II shall be submitted to the administrative authority and signed in accordance with requirements in Subchapter B of this Chapter. Certain technical data, such as design drawings and specifications and engineering studies, shall be certified by a Louisiana registered professional engineer. For post-closure permits, only the information specified in LAC 33:V.528 is required in Part II of the permit application.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:436 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1465 (August 1999).

Chapter 11. Generators

§1109. Pre-Transport Requirements

* * *

[See Prior Text in A - E.1.a.iii.(b)]

iv. in containment buildings and the generator complies with LAC 33:V.Chapter 43.Subchapter T by having placed his Louisiana professional engineer certification that the building complies with the design standards specified in LAC 33:V.4703 in the facility's operating record no later than 60 days after the date of initial operation of the unit. After February 18, 1993, Louisiana PE certification will be required prior to operation of the unit. The owner or operator shall maintain the following records at the facility:

* * *

[See Prior Text in E.1.a.iv.(a) - 7.d.iv.(c).(v)]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999).

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3001. Applicability

* * *

[See Prior Text in A - B.2]

3. hazardous wastes that are exempt from regulation under LAC 33:V.105.D and 4105.B.10-12, and hazardous wastes that are subject to the special requirements for small quantity generators under LAC 33:V.Chapter 39; and

* * *

[See Prior Text in B.4 - F.1.c]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:821 (September 1996), LR 22:835 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999).

Chapter 43. Interim Status

§4301. Purpose and Applicability

* * *

[See Prior Text in A - C.13.c]

- d. lamps as described in LAC 33:V.3809; and
- e. antifreeze as described in LAC 33:V.3811;

* * *

[See Prior Text in C.14 - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998), LR 25:482 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999).

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Assistant Secretary

9908#022

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Louisiana Pollutant Discharge Elimination System (LPDES)
Program (LAC 33:IX.2301, 2531, 2533)(WP032*)

(Editor's Note: Due to reengineering at the Department of Environmental Quality effective July 1, 1999, the Office and Division names have been changed in the Notice of Intent heading and in the Historical Note for each section in this rule. The contents of the Notice and the Rule have not changed.)

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 Water Quality regulations, LAC 33:IX.2301, 2531, and 2533 (Log #WP032*).

This rule is identical to federal regulations found in all 40 CFR sections referenced in LAC 33:IX.Chapter 23; 40 CFR 136; 40 CFR 401, 402, and 404-471, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at the address or phone number given below. No fiscal or economic impact will result from the rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule will update the incorporation by reference of federal regulations to refer to those regulations published in the July 1998 *Code of Federal Regulations*, unless otherwise noted. The basis and rationale for this rule are to clarify which edition of the federal regulations to consult when LAC 33:IX.Chapter 23 references the federal regulations. This will assure consistent application of state and federal requirements.

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

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality Regulations
Chapter 23. The Louisiana Pollutant Discharge
Elimination System (LPDES) Program
Subchapter A. Definitions and General Program
Requirements
§2301. General Conditions

* * *

[See Prior Text in A - E]

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter (e.g., 40 CFR 122.29) shall refer to those regulations published in the July 1998 *Code of Federal Regulations*, unless otherwise noted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:199 (February 1997), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999).

Subchapter N. Adoption by Reference

The Louisiana Department of Environmental Quality
adopts by reference the following federal requirements.

§2531. 40 CFR Part 136

Title 40 (Protection of the Environment) *Code of Federal Regulations* (CFR) part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, revised July 1, 1998, in its entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999).

§2533. 40 CFR Subchapter N

Title 40 (Protection of the Environment) CFR, chapter 1, subchapter N (Effluent Guidelines and Standards), revised July 1, 1998, parts 401 and 402, and parts 404 - 471 in their entirety. (Note: General Pretreatment Regulations for Existing and New Sources of Pollution found in part 403 of Subchapter N have been included in these regulations as Subchapter T.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999).

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Assistant Secretary

9908#023

RULE
Office of the Governor
Office of Elderly Affairs

GOEA Policy Manual Parish Councils on Aging (PCOAs)
(LAC 4:VII.Chapter 11)

In accordance with Revised Statutes 49:950 et seq., the Administrative Procedure Act, the Governor's Office of Elderly Affairs (GOEA) hereby amends the GOEA Policy Manual, effective January 1, 2000. The purpose of the proposed rule change is to update existing policies governing parish councils on aging (PCOAs). State law provides that there shall be one PCOA in each of the sixty-four parishes in Louisiana. The PCOAs receive an annual appropriation of state funds through the office of elderly affairs based upon the number of parish residents age sixty or over. This rule complies with R.S. 46:932, 935,936 and 1601-1606.

Title 4
ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

Subchapter C. Councils on Aging

§1151. Establishment of Parish Councils on Aging

A. Issuance of Charters. Charters for the establishment of parish voluntary councils on aging (hereafter referred to as "council on aging") are issued by the secretary of state upon the approval of applications by the Governor's Office of Elderly Affairs (GOEA) pursuant to LA R.S. 46:1602. Immediately upon issuance of the charter by the secretary of state, each council on aging is authorized to receive public funds from any governmental or political subdivision. Such funds shall be subject to audit by GOEA and the legislative auditor, or his duly appointed representative.

B. Governance

1. The functions of each council on aging shall comply with the objectives of state laws and shall be governed by the policies and regulations established by the Office of Elderly Affairs. Copies of such policies and regulations shall be furnished to each council on aging by GOEA prior to their effective date.

2. Each council on aging shall be voluntary as to its membership and as to all plans, programs and activities, and each shall be non-profit making and politically non-partisan and non-factional and shall be non-sectarian.

3. When GOEA determines, as a result of monitoring activities or reports from any source, that a council on aging, through action or inaction of its governing body, is jeopardizing the welfare of the citizens of that parish, or is in violation of the requirements of this policy manual or other state regulations, the following steps shall be taken.

a. GOEA shall require a meeting with the governing body to discuss the issues in question.

b. GOEA may require additional written information and/or records from the council on aging.

c. GOEA shall issue written guidelines and/or recommendations for the council on aging in order to remedy the issues under question.

d. GOEA shall provide technical assistance, as requested by the council on aging and deemed appropriate by GOEA, in order to facilitate resolution of those issues.

e. In the event that a council on aging refuses to follow GOEA's guidelines and/or recommendations to resolve said issues, GOEA may institute procedures to revoke that council on aging's charter.

C. Duties and Functions

1. Each council on aging shall:

a. collect facts and statistics and make special studies of conditions pertaining to the employment, financial status, recreation, social adjustment, mental and physical health or other conditions affecting the welfare of the aging people in the parish;

b. keep abreast of the latest developments in these fields of activity throughout the state and nation;

c. interpret its findings to the citizens of the parish;

d. provide for a mutual exchange of ideas and information on the parish and state level;

e. conduct public meetings to make recommendations for needed improvements and additional resources;

f. promote the welfare of aging people when requested to do so;

g. coordinate and monitor the services of other local agencies serving the aging people of the parish;

h. assist and cooperate with the Governor's Office of Elderly Affairs; and

i. make recommendations relevant to the planning and delivery of services to the elderly of the parish.

2. Each council on aging may appoint subcommittees to undertake such special studies as it authorizes and may appoint to such subcommittees persons qualified in any field of activity relating to the welfare of aging people.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:87.2(E), 46:932(8), 46:1601, 46:1602, 46:1605.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 25:1467 (August 1999).

§1153. Membership

A. General Membership

1. Membership in the council on aging shall be open, without restriction, to residents of the parish who have reached the age of majority. Membership applications shall be made available at the council on aging office. Membership fees shall not be charged.

2. Each council on aging shall conduct an annual membership drive. The membership rolls shall be closed two weeks prior to the annual meeting required in Subsection 1161.C of this manual.

3. A current list of the general membership shall be maintained at the council on aging office.

B. Board of Directors

1. The board of directors (the Board) shall be composed of no less than eleven members and no more than twenty-one with provisions in the by-laws for staggered terms of office. By-laws shall specify the exact number of

board members. If at any time the board membership is less than eleven members, the board shall not be considered a legally constituted board. The remaining members shall fill the vacancy in accordance with §1153.B.4. of this manual.

2. Members of the Board shall be elected by the general membership of the council on aging. Ballots shall be prepared from the list of nominees submitted by the Board Development Committee. The presiding officer shall allow ample time for nominations and shall recognize all nominations, including those from the floor, before declaring the nominations closed. All nominations from the floor shall be added to the ballot. Voting shall be conducted by secret ballot. Ballots shall be counted in full view of the general membership. If no nominations are received from the floor, board members may be elected by acclamation.

3. Members of the Board shall be elected for terms of three years with approximately one-third elected each year. The word "year" is defined as the period from the date of the annual meeting of one year to the date of the annual meeting of the following year, inclusive. Each Board member shall serve until a replacement is appointed or his/her successor is elected.

4. Whenever a position on the Board becomes vacant during the year, the Board shall elect a temporary replacement within sixty days. The replacement shall serve until the next annual meeting, at which time a successor shall be elected by the membership to fill the vacancy for the remainder of the unexpired term. A person elected to fill an unexpired term for at least eighteen months shall be considered to have occupied the position for a full term.

5. General Requirements

a. There shall be parish wide representation on the Board.

b. Members of the Board must have the knowledge and expertise in the areas of business and financial management needed to manage the affairs of the council on aging.

c. Members of the Board shall reside in the parish throughout their tenure.

d. Not more than one-half of the board membership may be elected officials.

6. Restrictions

a. Any member of the Board who shall have served as such for two consecutive full terms shall be ineligible for re-election for a period of one (1) year immediately following the expiration of such second full term.

b. Former council on aging staff members shall not serve on the Board of the same agency for a period of two (2) years immediately following separation from employment.

c. Former council on aging board members shall not serve as paid agency staff of the same agency for a period of two (2) years immediately following separation from the Board.

d. Except for the staff director, who may be an ex-officio member with the a voice in discussions but with no vote, paid staff members are prohibited from serving on the Board.

e. Immediate family members shall not serve on the Board at the same time. Immediate family is defined as follows: Husband, wife, father, mother, sister, brother, son, daughter, grandmother, grandfather, father-in-law, mother-

in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8), 46:1602, 46:1603.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 25:1468 (August 1999).

§1155. Council on Aging Board of Directors

A. Responsibilities of the Board of Directors

1. The Board shall assure the availability of funds required for the council on aging to function. Additionally, the Board shall be responsible for accountability of expenditures of funds.

2. The Board shall establish policies governing all aspects of the council on aging's operations. These policies shall be in compliance with state and federal laws and regulations. Additionally, they shall comply with the policies established by the Governor's Office of Elderly Affairs and shall be maintained as a matter of record. The board shall be responsible for enforcement of these policies.

3. The Board shall employ a paid full-time executive director, who shall be qualified by education and/or experience to perform duties which include, but are not limited to the following:

- a. planning and program development;
- b. evaluation of programs and operation;
- c. resource development and fund raising;
- d. fiscal management and budgeting;
- e. supervision of day-to-day operation;
- f. community relations;
- g. personnel management; and
- h. training and staff development.

4. The Board shall delegate the responsibilities listed in Sections 1157 and 1159 of this manual to the executive director. The executive director shall perform his/her duties in accordance with policies established by the Board. The executive director shall review and report to the Board and others, as appropriate, on programs, operations, facilities, equipment, and emergency arrangements.

5. The Board shall establish written procedures for hearing employee grievances. These procedures shall provide for an appeal of disciplinary actions by the executive director.

6. The Board shall ensure that any employee who runs for public office takes a leave of absence for the period of time (s)he is actively involved in the campaign. An employee shall be considered actively involved in the campaign from the time (s)he qualifies as a candidate to the time the votes are tabulated. If elected, the employee shall either resign or be terminated from employment.

7. The Board shall ensure that immediate family members are not employed by the council on aging in direct supervisory relationships. Immediate family is defined as follows: Husband, wife, father, mother, sister, brother, son, daughter, grandmother, grandfather, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law.

B. Offices of the Board of Directors

1. Officers of the board of directors shall be elected by the board members in accordance with the Open Meetings Law.

a. The minimum offices of the Board shall be president/chairperson; vice-president/vice-chairperson; and

secretary/treasurer; or secretary and treasurer. The duties of each office are defined below:

i. *President/Chairperson* the President/chairperson shall preside at all meetings of the Board and shall perform such other duties as may be assigned by the Board.

ii. *Vice-President/Vice-Chairperson* at the request of the President/chairperson, the Vice President/Vice-chairperson shall perform the duties and exercise the powers of the President/chairperson or in his/her absence or disability. The Vice President/Vice-chairperson shall perform such duties as may be assigned by the Board.

iii. The *Secretary* shall have general charge over all the Board's records. The Secretary shall keep complete minutes of all meetings of the Board and Executive Committee. The Secretary shall serve all notices required by the corporate laws of the State of Louisiana and the by-laws of the council on aging. The Secretary shall prepare and submit the Annual Report required in §1161.D of this manual. The Secretary shall be responsible for maintaining the official membership roll of the council on aging. The Secretary shall have the usual powers and duties of a Secretary and shall perform such other duties as may be assigned by the Board.

iv. The *Treasurer* shall have the usual powers and duties of a Treasurer. The Treasurer shall be responsible for all funds, property and securities of the Board subject to State and Federal law and/or regulations. The Treasurer shall present a quarterly financial statement to the Board to include a comparison of income and expenditures with respect to the annual budget. The Treasurer must properly account for and report to the Board annually regarding all assets of the council on aging. The Treasurer shall prepare and submit such reports as are required by law. The Treasurer shall perform such other duties as may be assigned by the Board.

b. The by-laws may provide for additional officers, and must spell out the duties and responsibilities of all additional officers.

2. Each officer shall be elected by the members of the Board at the first regular meeting of the Board. The first regular meeting of the Board shall be held immediately following adjournment of the Annual Meeting.

3. The term of office for each office shall be one year. Officers may serve no more than two consecutive terms in the same office. Terms shall begin when officers are elected.

4. The Board shall elect from among its members, an officer to fill any office vacated between elections within thirty days, or at its next scheduled meeting, whichever comes first. The officer so elected shall serve for the remainder of the unexpired term. An unexpired term so filled shall not be considered a term of office as defined in Paragraph (3) of this Subsection.

C. Committees

1. Standing Committees

a. The Board shall establish the following standing committees: Executive Committee, Board Development Committee, Personnel Committee and Finance Committee. Elections and appointments shall be done annually. The members of the standing committees shall be named at the first meeting of the Board following the annual meeting.

b. To the extent feasible, all members of the Board shall be appointed to at least one standing committee.

c. The duties and responsibilities of standing committees established by the Board shall include but not be limited to the following.

i. The *Executive Committee* shall be composed of the Officers and such other persons as the Board designates. The Executive Committee may have the authority to make decisions as delegated by the Board. Recommendations developed by the Executive Committee shall be brought before the full Board for its actions at the next meeting of the Board.

ii. The *Board Development Committee* shall be elected by the Board and shall elect its own Chairperson. This committee shall nominate temporary replacements to be elected by the Board to fill vacancies on the Board; present a slate of nominees for the Board to be voted upon by the general membership at the annual meeting; and develop a slate of nominees for officers to be presented to the Board at the first meeting following the annual meeting. Biographical information will be obtained by this committee on each individual being considered for nomination.

iii. The *Personnel Committee* shall be appointed by the Board President/chairperson. This committee shall interview and recommend candidates for the executive director's position; and recommend salaries and adjustments for the executive director. It shall develop personnel policies which ensure compliance with all pertinent federal and state laws and regulations pertaining to labor standards including employee rights, compensation, insurance, retirement, social security and other benefits. It shall hear appeals of disciplinary actions by the executive director. Its recommendations shall be presented to the full Board for approval.

iv. The *Finance Committee* shall consist of the Treasurer and members appointed by the Board President/Chairperson. The Treasurer shall serve as chairperson. This committee shall develop fund raising activities; prepare and submit the budget for the following fiscal year for approval by the Board; and submit financial reports and amendments to the budget for the current fiscal year.

2. Ad hoc Committees. The Board may designate such other committees as it deems necessary. Members shall be appointed by the Board President/chairperson. Ad hoc committees shall meet at the call of their Chairperson and shall submit a written report to the Board at the end of their assignment.

D. Meetings of the Board of Directors

1. Regular Meetings. Regular meetings of the Board shall be held at least quarterly according to a schedule determined by the Board.

2. Special Meetings. Special meetings may be called by the Chairperson; the Executive Committee; one-third (1/3) of the board members; or twenty-five credentialed members of the council on aging. The purpose of the meeting shall be stated in the request. Except in the cases of emergency, at least twenty-four (24) hours notice shall be given.

3. Parliamentary Authority. All Board meetings shall be conducted in accordance with the current edition of Robert's Rules of Order, provided the rules are not inconsistent with these policies or statutory regulation.

4. Open Meetings Law. Meetings of the council on aging shall be conducted in accordance with R.S. 42:1 et seq., the Open Meetings Law.

5. Notice. Notice of board meetings shall be given by regular mail to each member at least five (5) days before the date designated for such meetings. The notice shall specify the place, date, time and business to be brought before the Board.

6. Quorum

a. The presence of a simple majority of the number of board members stated in the by-laws shall be necessary to constitute a quorum at any meeting of the full Board to transact business. An act of a simple majority of the Directors attending a meeting when a quorum is present shall be an act of the Board.

b. The quorum for conducting business by all committees shall be a simple majority of the membership of each committee. The passage of any motion or resolution shall be by simple majority voice vote of those present.

7. Voting Procedures. Voting by the Board shall be conducted by voice vote of "yea" or "nay." No member will vote by proxy. Each member is to have one (1) vote. All votes made by members of the Board shall be recorded by member's name in the minutes of the meeting and as required by the Louisiana Open Meetings Law (R.S. 42:5 et seq.).

E. Conflict of Interest

1. All Board members shall avoid conflicts between their personal interests and the interests of the Council.

a. *Conflicts of interest* include situations wherein a Board member:

i. is involved in a Council decision or action regarding another entity in which the member or a member of his/her immediate family has a financial interest, is an employee, is a director or is a consultant; or

ii. discloses information relating to the business of the Council which can be used by another entity to the detriment of the Council.

b. *Other entities* include any organization or individual which does business or seeks to do business with the Council or competes with the Council.

c. *Immediate family* is defined as follows: Husband, wife, father, mother, sister, brother, son, daughter, grandmother, grandfather, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law.

2. If a board member is aware of any personal interest related to an issue that exists or is under consideration by the Council, the individual shall immediately and prior to the discussion about or action on the issue:

a. disclose the existence of all personal interests; and

b. abstain from voting and/or attempting to influence the decision.

3. The President/Chairperson, after reviewing the matter with the Executive Committee, shall have the authority to determine whether a conflict of interest exists.

F. Removal of Board Member or Officer

1. Reasons for Removal. Any Board member or officer may be removed from the Board, after a hearing, for the following reasons:

- a. failure to perform duties;
- b. conduct which is injurious to the council on aging or its purposes;
- c. absence from two (2) consecutive regular meetings of the Board without a valid reason. The secretary shall mail a letter of notification after a member has missed two (2) regular meetings.

2. Notice of Removal. Any officer or member proposed to be removed shall be entitled to at least five (5) days notice in writing, of the meeting at which such removal is to be voted upon. Such notice shall be sent by registered mail, and shall include the reason(s) for the proposed removal. The officer or member proposed to be removed shall be entitled to appear and be heard at such meeting, and may present such witnesses and make such defense as he/she deems proper.

3. Process of Removal. Any officer or member may be removed from office by the affirmative vote of two-thirds (2/3) of the board members present at any regular meeting or special meeting called for that purpose. The Board may declare a seat vacant or void the election of a board member.

AUTHORITY NOTE: Promulgated in accordance with R.S.46:932(8), 46:1605.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 25:1469 (August 1999).

§1157. Administrative and Personnel Responsibilities

A. Administrative Responsibilities

1. Administrative records and reports shall be established and maintained on the council on aging's total operation to satisfy legal requirements and for use as a management tool. These should include:

- a. written records of all policies set forth by the governing body;
- b. minutes of meetings of the Board;
- c. minutes of committee meetings, including records of major decisions;
- d. personnel records;
- e. fiscal records;
- f. correspondence;
- g. safety, fire inspection, public health inspection, and related reports;
- h. accident reports and procedures;
- i. statistical information;
- j. annual reports, reflecting fiscal and program activity of the council on aging; and
- k. historical records, clippings, and other documents.

2. Administrative records and reports should be reviewed periodically by appropriate staff to evaluate their adequacy and continued usefulness.

3. An appropriate policy, consistent with administrative and legal requirements, should be established for retaining records and reports.

B. Personnel Responsibilities

1. Personnel Management

a. Staffing. A council on aging shall have a staffing pattern that clearly defines the positions necessary to implement the organization's goals and objectives and specifies appropriate relationships among all levels of administration and supervision.

b. Staff Supervision

i. a council on aging should have a formal system of staff supervision for paid and volunteer personnel to help

improve their performance and develop their abilities. Supervision should include regular individual conferences and staff meetings.

ii. a council on aging should have a development program for paid and volunteer staff to encourage participation in educational and training opportunities that will enhance their skills and job performance.

c. Staff Training

i. Councils on Aging shall provide training for staff and volunteers who are assigned to record keeping. Such training should include:

(a). information about the council on aging's system of record keeping (for example, types of records and reports and how they are used);

(b). training for computer-based information systems, if used by the council on aging; and

(c). instruction about procedures to ensure confidentiality of participants and staff.

2. Personnel Policies, Practices and Procedures

a. Personnel policies shall be written in a handbook or other suitable form and provided to staff, board members, and, as appropriate, other agencies. Procedures and criteria in the following areas should be included as applicable:

- i. recruitment, hiring, probation, dismissal;
- ii. insurance;
- iii. leave, vacation, holidays, other benefits;
- iv. retirement;
- v. grievances and disciplinary actions;
- vi. performance appraisal and promotion;
- vii. salary ranges and increases ;
- viii. staff development and training;
- ix. channels for staff communication with management;

x. family leave, if agency meets Family Medical Leave Act (FMLA) requirements;

xi. protection from discrimination based on age, race, sex, sexual preference, disability, and religious preference;

xii. protection from sexual harassment; and

xiii. Equal Employment Opportunity.

b. Hiring practices shall be consistent with requirements of government laws and regulations.

c. Job Descriptions

i. There shall be a written job description for each staff and volunteer position.

ii. Each job description shall state at a minimum:

- (a). position title;
- (b). qualifications;
- (c). duties and responsibilities;
- (d). scope of authority; and
- (e). lines of communication for supervision and reporting.

iii. Each staff member and volunteer shall be given a copy of his or her job description, and it must be discussed at the time of employment or job assignment.

iv. Management shall annually review each job description with staff and revise it as appropriate.

d. An employee record shall be maintained, and should contain at least the following:

- i. application for employment, including a résumé;
- ii. letters of reference;

- iii. job description;
 - iv. letters of employment;
 - v. record of compensation, promotion, and salary adjustments;
 - vi. evaluation and commendations;
 - vii. disciplinary actions; and
 - viii. correspondence on personnel matters.
- e. Each employee's performance shall be evaluated regularly, according to an established procedure. Performance appraisals should include:
- i. a written performance appraisal based on objective and job-related criteria;
 - ii. review of the appraisal in a face-to-face interview; and
 - iii. opportunity for written dissent to be part of the personnel record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8), 46:1605.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 25:1471 (August 1999).

§1159. Fiscal Responsibility

A. Fiscal Planning

1. A council on aging's financial operation shall be based on sound planning and prudent management of all resources.

2. The budget shall specify and allocate all anticipated income, from all sources, and all projected expenditures related to services regardless of the funding source.

3. Procedures shall be established and records kept so that a cost analysis of services and activities can be made and the results used in the planning process and in evaluation.

B. Accountability and Reporting

1. Regular fiscal reports disclosing the council on aging's full financial condition shall be prepared. These reports shall include balance sheets, statements of income and expense, and cumulative and comparative budgets. Fiscal reports shall be submitted to the Governor's Office of Elderly Affairs (GOEA) and made available to the public on request.

2. The accounting records of the council on aging shall be audited annually within 180 days of Fiscal Year close by a Certified Auditor or Certified Public Accountant whose report shall be rendered to the Board and sent to GOEA as required.

3. The audit report shall be submitted to the Board and the executive director and made available to the public on request.

4. Reports related to income provided for special purposes (grants, contracts, special projects, etc.) shall be prepared and submitted to GOEA as required.

5. Each council on aging annually shall file with GOEA a financial statement for the previous year of all receipts and disbursements of funds allocated pursuant to R.S. 46:1606. Such statement shall be filed no later than thirty days after the close of each fiscal year.

C. Legal and Administrative Requirements

1. A council on aging's financial operation shall conform to all applicable legal and administrative requirements.

2. Budgeting, accounting, and financial reporting practices shall conform to generally accepted accounting principles.

3. Budgeting, accounting, and financial reporting practices shall conform to requirements of a council on aging's funding sources.

D. Management Procedures

1. Accurate and complete bookkeeping records shall be maintained.

2. A council on aging or its Board shall have an internal control system consisting of written procedures for:

a. centralized cash control, including recording cash receipts and expenditures, depositing cash, separation of cash handling from record-keeping, and periodic checks of petty cash and other cash funds;

b. purchasing, including an approval system for all purchases, names of persons authorized to contract or purchase for the council on aging, obtaining competitive price quotes or bids, and separation of ordering and receiving functions;

c. storage and inventory control; and

d. bonding of persons who handle the council on aging's funds.

E. Risk Protection

1. A council on aging shall have a risk protection program (insurance coverage) that:

a. meets legal requirements;

b. is adequate to preserve the council on aging's assets; and

c. compensates claimants for reasonable claims.

F. Administrative staff or Board members shall procure information on insurance needs and available types of protection. Such information should be reviewed by the Board or the executive director at least annually.

3. A council on aging shall have insurance policies covering:

a. loss from fire, theft, vandalism, and natural disasters;

b. comprehensive general liability;

c. vehicle insurance;

d. liability for use of private automobiles by paid or volunteer staff on official business;

e. workers' compensation; and

f. liability for acts of volunteers.

F. Compensation. The members of the Board shall receive no per diem or other compensation for their services.

G. Travel Reimbursement. Members of the Board may receive reimbursement for in-parish travel for the purpose of attending meetings of the Board or any committee. At the option of the Board, Board members may receive reimbursement for out-of-parish travel conducted in connection with business of the Board. Such travel shall receive prior approval of the Board at a regularly scheduled meeting. State travel regulations shall govern the rate of reimbursement.

H. Bonding. A fidelity bond shall be maintained by the council on aging to cover all board officers, all board members authorized to sign checks, and all council on aging employees who handle cash or other funds administered by the Board.

I. Bank Accounts. The Board shall designate all authorized check signers through passage of a resolution. All checks issued by the council on aging shall have two signatures. At least one of the signatures shall be that of a

duly authorized board member. The bookkeeper or person preparing the checks shall not be authorized to sign checks.

J. Ownership and Transfer of Property

1. Acquisition. Assets derived from funds administered by the council on aging are assets of the council on aging.

2. Disposition. In the event of the dissolution of the council on aging, no assets shall be used to benefit any private person, corporation, or group. GOEA shall ensure that such assets are transferred to a unit of government or to another private non-profit agency holding a 501(3)(c) Certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8), 46:1606.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 25:1472 (August 1999).

§1161. General Requirements

A. Council on Aging By-laws

1. By-laws shall be reviewed and updated as necessary, at least every two years. A copy of each council on aging's by-laws or a "Board of Directors By-laws Certification Form" (HCBS1A02) shall be sent to the Governor's Office of Elderly Affairs by July thirty-first of each year. Revisions must be accompanied by a copy of the by-laws and GOEA Form (HCBS1A01), "Evaluation of Board of Directors By-laws" Form (HCBS1R01) and forwarded to GOEA within 30 days of the revision.

2. By-laws shall contain procedures for amendment. Due notice of not less than 14 days shall be given to all board members and the public. Proposed changes in the by-laws shall not be voted on at the meeting at which they are presented for consideration, but shall be laid over to the next regularly scheduled board meeting unless a special meeting is called for that purpose.

B. Membership List. The secretary shall maintain a list of the Board members using GOEA Form HCBS1C01 and HCBS1C02. The list shall be available at all regular and special meetings of the membership. Only those members who have been identified as current members will be permitted to vote at meetings of the general membership.

C. Annual Meeting

1. There shall be an annual meeting of the general membership of the council on aging for the purpose of nominating and electing board members, receiving reports, and conducting any other business that may arise.

2. The Annual Meeting shall be advertised in the official parish journal twenty-one (21) days in advance. Notices shall be posted at all council on aging activity sites for at least seven (7) days immediately prior to the meeting.

3. Those members of the council on aging present at the annual meeting and who have been credentialed by the Secretary shall constitute a quorum.

D. Annual Report. An annual report shall be prepared at least two weeks prior to the annual meeting. It shall include a list of board members; a comprehensive financial statement that identifies all revenues, expenses, sources of funding and ending balances; a summary of activities conducted pursuant to Subsection 1151.C, including findings and recommendations of subcommittees appointed by the council on aging during the most recently completed State fiscal year. Copies of the annual report shall be provided to GOEA. Copies shall be made available to the general public and may be provided at cost.

E. Ethics

1. Purchases

a. Funds administered by the council on aging shall be neither obligated nor expended for the purchase or rental of goods, space, or services if any of the following persons has a substantial interest in the purchase or rental unless it is documented that it is the cheapest or sole source, and the person who has an interest plays no part in making the decision:

- i. a board member;
- ii. the executive director or assistant director;
- iii. any employee who has responsibility for procurement of goods, space or services;
- iv. anyone who is a member of the immediate family of a board member or employee referred to above; or
- v. Any individual referred to above, who has a direct or indirect financial or executive interest in any contract or transaction with the council on aging shall disclose such interest to the Board.

b. The individual concerned shall not participate in discussion or vote relating to the subject of their interest.

F. Coercion. Neither the Board nor the executive director shall impose upon any employee or prospective employee of the council on aging any conditions of employment, either expressed or implied, which are not job related in terms of qualifications, duties and responsibilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1601 and R.S. 46:1602.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:1473 (August 1999).

§1163. Dissolution of Councils on Aging

A. The Governor's Office of Elderly Affairs, with approval of the Governor, and upon review and recommendation of the Louisiana Executive Board on Aging, may revoke the charter of any council on aging for noncompliance with law, policies and/or regulations.

B. Any council on aging may be dissolved and surrender its charter upon a decision to do so reached by a majority vote of the total membership of the Board. Upon revocation or surrender of the charter, a council on aging shall cease to function under the provisions of Chapter 16 of the Louisiana Revised Statutes.

C. Within sixty days of the revocation or surrender of a charter, GOEA shall accept applications from any group of five or more citizens of the parish for a new charter. The application shall set forth the names, addresses, and occupations of the persons who are to serve as the charter members and such other information as required by Chapter 16 of the Louisiana Revised Statutes. Charter members in the council on aging shall consist of those persons who associate themselves together, and receive an original charter. Not more than half of the charter membership of a council on aging shall be elected officials.

D. Immediately upon receipt of an application, GOEA shall make such examination and investigation as it deems advisable. After the application has been approved by the executive director of GOEA, it shall be transmitted to the secretary of state, who is authorized to issue a charter which thereafter shall constitute authority of the council on aging to function in the parish for which the charter was issued in accordance with the provisions of Chapter 16 of the Louisiana Revised Statutes.

E. Immediately upon issuance of the charter by the secretary of state, the newly established council on aging will be authorized to receive public funds from any governmental or political subdivision. Such funds shall be subject to audit by GOEA and the legislative auditor, or his duly appointed representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1602 and R.S. 46:1606

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:1473 (August 1999).

§1165. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1604.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), repealed LR 25:1474 (August 1999).

§1167. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1605 and R. S. 42:1119.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 10:1023 (December 1984), LR 11:1078 (November 1985), LR 13:23 (January 1987), LR 13:569 (October 1987), LR 17:602 (June 1991), repealed LR 25:1474 (August 1999).

§1169. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1602.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), repealed LR 25:1474 (August 1999).

P.F. "Pete" Arceneaux, Jr.
Executive Director

9908#063

RULE

Office of the Governor Office of Elderly Affairs

GOEA Policy Manual Purchasing
(LAC 4:VII.1201-1207)

In accordance with Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) hereby amends Sections 1201 through 1207 of the GOEA Policy Manual effective August 20, 1999. The purpose of the proposed rule change is to update existing policies affecting service providers responsible for administering programs funded through GOEA. This rule complies with the Older Americans Act (OAA) (Public Law 89-73), 45 CFR Part 1321, and LA R.S. 44:36.

Title 4 ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

Subchapter D. Service Provider Responsibilities

§1201. Purchasing

A. Applicability

This Section covers all purchases of supplies, equipment or services by Governor's Office of Elderly Affairs (GOEA) recipients under allowable cost funding. Older Americans Act Title III service procurement and professional service procurement are not covered by this Section.

B. Governor's Office of Elderly Affairs Purchasing Policy

1. GOEA recipients shall make positive efforts to utilize small businesses and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts utilizing federal and state funds. Agencies shall maintain a list of small or minority-owned businesses to be contacted for potential purchases. The following organizations may be contacted for information:

- a. Louisiana Office of Minority Business Enterprise;
- b. Louisiana Office of Women's Business Enterprise;
- c. Small Business Administration;
- d. Louisiana Minority Business Development Authority (LAMBDA); and
- e. Louisiana Department of Commerce.

2. GOEA recipients are encouraged to utilize State contracts in making purchases. GOEA can provide a listing of State Purchasing personnel and telephone numbers to contact for price, vendor, and contract number information. Normally a local vendor will be listed on State contract. The use of State contract(s) eliminates all need for bidding and advertisements.

3. ...

C. Methods of Purchasing

1. Small Purchases. Any procurement not exceeding \$10,000 shall be made in accordance with the small purchase procedures in Subsection D of this Section. Those purchases defined in Paragraph 7 of Subsection D of this Section shall be deemed small purchases regardless of price. Procurement requirements shall not be artificially divided so as to constitute a small purchase under this Section.

2. Competitive Sealed Bidding. Purchases exceeding \$10,000 shall be by competitive sealed bidding.

D. Small Purchase Procedures

1. For purchases equal to or less than \$500, no competitive bidding is required.

2. Purchases over \$500 but less than or equal to \$2,000.00 shall be made by soliciting three (3) price quotations except in cases of emergency. (Emergencies shall be documented.) The quotations may be solicited by telephone, facsimile, or other means. Whenever possible, at least one (1) of the bona fide, qualified bidders shall be a certified economically disadvantaged business. Agency files shall document and list all solicited bidders and each bidder's contact person, summarize bid responses, indicate the awarded bid, and state the reason any lower bid was rejected. If no bid was solicited from a certified economically disadvantaged business, agency files shall contain a written explanation of why such a bid was not solicited. Agency files should also contain written confirmation of the bid from the successful bidder.

3. Purchases Over \$2,000 But Less Than or Equal To \$10,000

a. Purchases over \$2,000 but less than or equal to \$10,000 shall not be made except by soliciting price quotations either written or by facsimile from at least five (5) bona fide qualified bidders. Whenever possible, at least two (2) of the bona fide, qualified bidders shall be certified economically disadvantaged businesses. Solicitations shall allow for bids to be accepted for a minimum period of ten (10) calendar days.

b. All solicitations shall include the closing date, time, and all pertinent competitive specifications, including quantities, units of measure, packaging, delivery requirements, ship-to location, terms and conditions, and other information sufficient for a supplier to make an acceptable bid.

c. Precautionary measures shall be taken to safeguard the confidentiality of bid responses prior to the closing time for receipt of bids. No bid shall be evaluated using criteria not disclosed in the solicitation.

d. Agency files shall document and list all solicited bidders and each bidder's response, summarize bid responses, indicate the awarded bid, and state the reason why any lower bid was rejected. If fewer than two (2) bids were solicited from certified economically disadvantaged businesses, agency files shall contain a written explanation of why two (2) bids were not solicited.

4. No purchase where the estimated cost is over \$10,000 shall be made except by advertising in accordance with Subsection E of this Section and sending out written invitations for bids to at least eight bona fide qualified bidders.

5. Automotive, Machinery and Equipment Parts.

Repairs and parts associated with repairs for automobiles and machinery shall be obtained by either:

a. the use of an authorized dealer - a dealer certified by the manufacturer to perform maintenance on their equipment; or

b. obtaining competitive bids as indicated above.

6. Exceptions to minimum competitive requirements include:

a. federal government surplus property;

b. textbooks, newspapers, subscriptions, or foreign publications, and membership;

c. all public utilities;

d. all services provided by local government (Example: garbage pick-up); and

e. parcel services, including but not limited to Federal Express, United Parcel Service, Airborne Express, and Express Mail.

7. Quotations should be obtained from at least three bona fide, qualified bidders where possible in the purchase of perishable foods. When possible, at least one (1) of the bona fide, qualified bidders shall be a certified economically disadvantaged business.

E. Competitive Sealed Bidding Process

1. ...

2. Public Notice

a. Written public notice of the invitation for bids shall be given at least ten days prior to the date set forth therein for the opening of bids. If the amount of the purchase is ten thousand dollars (\$10,000) or more, such notice shall be mailed to persons in a position to furnish the supplies,

services, or major repairs required, as shown by its records, and by advertising.

b. The advertisements or written notices shall contain general descriptions of the supplies, services, or major repairs for which bids are wanted and shall state:

i. The names and locations of the departments or institutions for which the purchases are to be made;

ii. Where and how specifications and quotation forms may be obtained; and

iii. The date and time not later than which bids must be received and will be opened.

c. Each advertisement shall be published in the official journal of parish government.

3. - 4. ...

5. Correction or Withdrawal of Bids. Patent errors in bids or errors in bids supported by clear and convincing evidence may be corrected, or bids may be withdrawn, if such correction or withdrawal does not prejudice other bidders. Such actions may be taken only to the extent permitted under regulations.

6. Award

a. ...

b. Responsive bidder means a person who has submitted a bid which conforms in all substantive respects to the invitation for bids, including the specifications set forth in the invitation.

c. The term "responsible bidder" means a person who has the capability in all respects to perform the contract requirements and the integrity and reliability which will assure good faith performance.

F. Responsibility of Bidders and Offerors

1. ...

2. Whenever the board of directors proposes to disqualify the lowest bidder on bids of more than \$10,000, the board shall do the following:

a. give written notice of the proposed disqualification to such bidder and

include in the written notice all reasons for the proposed disqualification; and

b. give such bidder who is proposed to be disqualified, a reasonable opportunity to be heard at an informal hearing at which such bidder is afforded the opportunity to refute the reasons for the disqualification.

G. Specifications

1. - 2. ...

H. - K. ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 18:610 (June 1992), amended LR 25:1474 (August 1999).

§1203. Applicable Laws and Standards

Service providers shall comply with all state licensing standards, all applicable accrediting standards, any applicable federal standards and all applicable state and federal laws as well as Governor's Office of Elderly Affairs policies, procedures, and rules.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.9(e)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984),

amended LR 11:1078 (November 1985), LR 25:1475 (August 1999).

§1205. Records and Reports

Repealed. (Information will be relocated to §1189.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:36.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:1476 (August 1999).

§1207. Monitoring by GOEA

A. ...

B. GOEA shall be permitted to audit, examine and make excerpts from invoices, materials, payroll, records of personnel, conditions of employment and other data relating to matters covered by the subcontract.

C. ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:1476 (August 1999).

P.F. "Pete" Arceneaux, Jr.
Executive Director

9908#047

RULE

Department of Health and Hospitals Board of Dentistry

Advertising; Dental Assistant Duties; Local Anesthesia;
Notice of Hearing; Conduct of Hearings; Decisions;
HIV/HIB/HCB Authorization to Practice;
Air Abrasion Units; and Rule Making
(LAC 46:XXXIII.301, 502, 710, 907,
923, 929, 1210, 1305, 1401, and 1403)

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), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry hereby amends LAC 46:XXXIII.301, 502, 710, 907, 923, 929, 1210, 1305, 1401, and 1403. No preamble has been prepared.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 1. General Provisions

§301. Advertising and Soliciting by Dentists

A. - G. ...

H. Disclosure of Area of Practice

1. - 4. ...

5. When a licensee advertises any specialty which is not recognized by the board or the American Dental Association as a specialty, a disclaimer must be included in the advertisement stating that "This area of practice is not a recognized specialty of the Louisiana State Board of Dentistry or the American Dental Association."

I. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry, LR 15:996 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:23 (January 1996), LR 22:1215 (December 1996), repromulgated LR 23:199 (February 1997), amended LR 23:1524 (November 1997), LR 25:509 (March 1999), LR 25:1476 (August 1999).

Chapter 5. Dental Assistants

§502. Authorized Duties of Expanded Duty Dental Assistants

A. A person licensed to practice dentistry in the State of Louisiana may delegate to any expanded duty dental assistant any chairside dental act that said dentist deems reasonable, using sound professional judgment. Such act must be performed properly and safely on the patient and must be reversible in nature. Furthermore, the act must be under the direct supervision of the treating dentist. However, a dentist may not delegate to an expanded duty dental assistant:

1. - 3. ...

4. placement and removal of antimicrobial agents;

5. - 16. ...

B. - C. ...

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 19:205 (February 1993), amended LR 21:569 (June 1995), LR 22:1217 (December 1996), LR 24:1115 (June 1998), LR 25:1476 (August 1999).

Chapter 7. Dental Hygienists

§710. Administration of Local Anesthesia for Dental Purposes

A. - C. ...

D. The applicant must pass the board approved written examination in the administration of local anesthesia, depending upon the circumstances, if deemed necessary by the board.

E. - F. ...

G. A licensed dental hygienist who has demonstrated competence to the satisfaction of the board may qualify for a special endorsement and may undertake the administration of local anesthesia by:

1. successfully completing the examination administered or approved by the board;

2. - 3. ...

H. - I. ...

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 24:1292 (July 1998), amended LR 25:1476 (August 1999).

Chapter 9. Formal Adjudication

§907. Notice of Hearing

A. ...

B. A written notice of the time, date, and place of the hearing regarding the matters set forth in the complaint shall be served upon the respondent by certified mail, return-receipt-requested first class mail, at the most current address for the respondent reflected in the official records of the board or by any other means authorized by the

Administrative Procedure Act or the Louisiana Code of Civil Procedure. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1318 (October 1993), amended LR 22:25 (January 1996), LR 25:1476 (August 1999).

§923. Conduct Of Hearing; Record

A. Unless otherwise requested by the respondent, adjudication hearings shall be conducted in closed session. The provisions of this paragraph do not apply to non-licensed persons named defendant(s) in a disciplinary administrative adjudication.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4), (5), and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1319 (October 1993), amended LR 25:1477 (August 1999).

§929. Decisions; Notice

A. ...

B. 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, by first class mail. The day after mailing of the decision shall be considered as the date of service on the respondent.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760 (4), (5), and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1320 (October 1993), amended LR 25:1477 (August 1999).

Chapter 12. Transmission Prevention of Hepatitis B Virus, Hepatitis C Virus, and Human Immunodeficiency Virus

§1210. Authorization To Practice; Expert Review Panel

A. - B. ...

C. Licensees who are HBV or HCV seropositive may be authorized to continue practice without the necessity of receiving authorization from an expert review panel. This determination will be made by the board's committee on HIV/HBV/HCV on a case-by-case determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:743 (July 1992), amended LR 21:573 (June 1995), LR 25:1477 (August 1999).

Chapter 13. Dental Laser and Air Abrasion Utilization

§1305. Air Abrasion Units

Utilization of air abrasion units by licensed dental hygienists and dental auxiliaries is prohibited. However, this does not prevent the utilization of air polishing units by licensed dental hygienists.

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 25:1477 (August 1999).

Chapter 14. Rulemaking, Declaratory Opinions and Rules

§1401. Scope of Chapter

The rules of this Chapter govern the board's processes to consider petitions from interested persons relative to the adoption, amendment, or repeal of a rule or the request for the issuance of a declaratory order or ruling in accordance with the Administrative Procedure Act.

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 19:1322 (October 1993), amended LR 24:1117 (June 1998), LR 25:1477 (August 1999).

§1403. Forms

A. All petitions, whether requesting the adoption, amendment, repeal, applicability of a rule, statutory provision, or order of the board or the request for the issuance of a declaratory order or ruling shall be submitted on plain white, letter size (8 1/2" by 11") bond; with margins of at least one inch on all sides and text double-spaced except as to quotations and other matter customarily single-spaced; shall bear the name, address, and phone number of the person requesting the action; and shall also state the complete and full name of each person(s), organization, or entity the requester represents along with sufficient information to identify and fully describe said person(s), organization, or entity.

B. The petition relative to rules shall fully and succinctly state the reasons for the requested action, and what results, if any, would be expected from such action, and an estimate of any expenditures or increases in revenue reasonably expected if said rule is adopted, amended, or repealed.

C. All petitions for declaratory orders or rulings shall set forth the specific statute or rule and the pertinent factual circumstances, as well as those reasons in support of or in opposition to the issue presented.

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 19:1322 (October 1993), amended LR 24:1117 (June 1998), LR 25:1477 (August 1999).

C. Barry Ogden
Executive Director

9908#010

RULE

Department of Health and Hospitals Board of Dentistry

Fees for Dentists and Dental Hygienists
(LAC 46:XXXIII.415 and 419)

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., particularly R.S. 37:760(8) and R.S. 37:795, notice is hereby given that the Department of Health and Hospitals, Board of Dentistry

hereby amends LAC 46:XXXIII.415 and 419. No preamble has been prepared.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 4. Fees and Costs

Subchapter C. Fees for Dentists

§415. Licenses, Permits, and Examinations (Dentists)

For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board:

- 1. - 3. ...
- 4. Biennial renewal fee for dental license \$400.00
- 5. Annual renewal fee for restricted dental license (excluding advanced education students and dental residents) \$150.00
- 6. Replacement or duplicate dental license, certificate, temporary permit \$50.00
- 7. Delinquency fee in addition to renewal fee for any dental license \$250.00
- 8. Reinstatement of a license which has been suspended, revoked or which has lapsed by non renewal \$500.00
- 9. Restricted dental license, advanced education students and dental residents:
 - a. For period July 1-December 31 \$100.00
 - b. For each full year (January 1-December 31) thereafter \$200.00
 - c. For period January 1-June 30 \$100.00
- 10. Dental application and licensure by credentials (nonrefundable) \$2,000.00
- 11. Application and permitting for anesthesia permit \$50.00
- 12. Renewal of anesthesia permit \$50.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health & Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1526 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999).

Chapter 4. Fees and Costs

Subchapter D. Fees for Dental Hygienists

§419. Licenses, Permits, And Examinations (Dental Hygienists)

For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board:

- 1. Examination and licensing of dental hygienist applicant \$200.00
- 2. ... \$150.00
- 3. Biennial renewal fee for dental hygienist license \$150.00
- 4. Replacement or duplicate dental hygienist license, certificate, temporary permit \$50.00
- 5. Delinquency fee in addition to renewal fee for any dental hygienist license \$100.00

6. Reinstatement of a dental hygienist license which has been suspended, revoked, or which has lapsed by non renewal. \$250.00

7. Dental hygiene application and licensure by credentials (nonrefundable) \$800.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8), R.S. 37:768, and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1527 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999).

C. Barry Ogden
Executive Director

9908#009

RULE

**Department of Health and Hospitals
Office of Management and Finance
Division of Research and Development**

Medicare Rural Hospital Flexibility Program Critical Access Hospitals (LAC 48:I.7601-7615)

Effective August 20, 1999, the Department of Health and Hospitals, Division of Research and Development implements the Medicare Rural Hospital Flexibility Program (MRHF) creating the Critical Access Hospital (CAH) as a limited service hospital eligible for Medicare certification and reimbursement. To qualify as a CAH, the small rural hospital must complete the following licensing and certification process.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 76. Medicare Rural Hospital Flexibility Program (MRHF)

Subchapter A. Critical Access Hospitals

§7601. Definitions

A. The following words and terms, when used in this Chapter shall have the following meanings, unless the context clearly indicates otherwise.

CAH Critical Access Hospital.

EACH/ RPCH-Essential Access Community Hospital/Rural Primary Care Hospital a limited service rural hospital program.

DR&D Division of Research and Development.

EMS Emergency Medical Services.

HCFA Health Care Financing Administration.

HEALTH CARE NETWORK an organization consisting of at least one CAH and one acute care hospital with agreements for patient referral, emergency/non-emergency transportation and other services as feasible.

HPSA Health Professional Shortage Area designated by the federal Office of Shortage Designations.

HSS Department of Health and Hospitals, Bureau of Health Services Financing, Health Standards Section.

MSA Metropolitan Statistical Area.

MRHF Medicare Rural Hospital Flexibility Program.

MUA Medically Underserved Area designated by the federal Office of Shortage Designations.

Necessary Provider a facility located in a primary care HPSA or MUA; or located in a parish in which the percentage of Medicare beneficiaries is higher than the percentage of Medicare beneficiaries residing in the state; or a facility located in a parish in which the percentage of the population under 100 percent of the federal poverty level is higher than the percentage of the state population under 100 percent of the federal poverty level.

Not-for-Profit incorporated as a non-profit corporate entity.

Primary Care basic ambulatory health services that provide preventive, diagnostic and therapeutic care.

Primary Care Physicians includes general, family and internal medicine, pediatrics and obstetrics/gynecology.

PRO Peer Review Organization.

Public Hospital hospital supported by public funds including city, service district and state hospitals.

Rural must be a full county (parish) located outside of a Metropolitan Statistical Area, as defined by the Office of Management and Budget.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (PL 105-33) and Title XVIII of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1478 (August 1999).

§7603. Criteria for Designation as a CAH

A. A hospital must submit an application to the DR&D and must meet the following criteria, or affirm that it can meet these criteria at the time of certification, to be designated as a CAH:

1. be a not-for-profit or public hospital;
2. be currently participating in the Medicare program and meet applicable conditions of participation;
3. be located in a rural area;
- 4.a. be located more than a thirty-five (35)-mile drive, or a fifteen (15)-mile drive in mountainous terrain or areas with secondary roads, from the nearest hospital or CAH; OR
 - b. be certified as a Necessary Provider by meeting at least one of the following:
 - i. be located in a primary care HPSA or a MUA;
 - ii. be located in a parish in which the percentage of Medicare beneficiaries is higher than the percentage of Medicare beneficiaries residing in the state;
 - iii. be located in a parish in which the percentage of the population under 100 percent of the federal poverty level is higher than the percentage of the state population under 100 percent of the federal poverty level.

c. Provides not more than 15 acute care inpatient beds, meeting such standards as the Secretary may establish, for providing inpatient care for a period not to exceed 96 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 96-hour restriction on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (PL 105-33) and Title XVIII of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1479 (August 1999).

§7605. Services and Staffing

A. The facility makes available 24-hour emergency medical care services. This is to include the provision of immediate availability of on-line medical control.

B. The facility meets the staffing requirements that apply to rural hospitals (as found in section 1861(e) of the Social Security Act), except that:

1. the facility need not meet hospital standards regarding the number of hours per day or days per week in which it must be open and fully staffed, except as required to make emergency medical care services available and to have nursing staff present if an inpatient is in the facility;
2. the facility may provide the services of a dietitian, pharmacist, laboratory technician, medical technologist, and/or radiological technologist on a part-time, off site basis; and
3. inpatient care may be provided by a physician assistant, nurse practitioner, or clinical nurse specialist, subject to the oversight of a physician who need not be present in the facility but immediately available in accordance with state requirements for scope of practice.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (PL 105-33) and Title XVIII of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1479 (August 1999).

§7607. Network Membership

A. The facility is a member of a rural health network and provides the following:

1. documentation of agreements with at least one hospital that is a member of the network for:
 - a. patient referral and transfer;
 - b. development and use of communications systems (including, where feasible, telemetry systems and systems for electronic sharing of patient data); and
 - c. provision of emergency and non-emergency transportation between the CAH and the hospital; and
2. documentation of an agreement for credentialing and quality assurance with at least one of the following:
 - a. a hospital that is a member of the network; or
 - b. a professional review organization (PRO) or equivalent entity.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (PL 105-33) and Title XVIII of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1479 (August 1999).

§7609. Application Submission and Review

A. A hospital that wishes to be designated as a CAH is required to submit an application to the DR&D. Application forms may be requested and submitted by interested hospitals at any time following HCFA approval of the State's Rural Health Care Plan and Application.

B. On receipt of an application, the DR&D will conduct a review to determine the eligibility of the applicant hospital for conversion and consistency with the criteria for designation detailed in §7603.

C. The supporting information to be included with the application is:

1. documentation of public or not-for-profit status;
2. board resolution to seek CAH certification;
3. documentation of Medicare participation;
4. notification from State Office of Primary Care and Rural Health that location is in a HPSA or MUA;
5. affirmation that 24-hour Emergency Medical Care services and medical control agreements are available including information on staffing arrangements;
6. documentation that facility meets rural hospital staffing requirements with the following exceptions:
 - a. the facility need not meet hospital standards regarding the number of hours per day or days per week in which it must be open and fully staffed, except as required to make emergency medical care services available and to have nursing staff present if an inpatient is in the facility;
 - b. the facility may provide the services of a dietitian, pharmacist, laboratory technician, medical technologist, and/or radiological technologist on a part-time, off site basis; and
 - c. inpatient care may be provided by a Physician Assistant, Nurse Practitioner, or Clinical Nurse Specialist, subject to the oversight of a physician who need not be present in the facility but must be immediately available in accordance with state requirements for scope of practice.
7. copy of needs assessment, if available;
8. copy of strategic plan for conversion;
9. copy of financial feasibility assessment.

D. Decision. If an application is complete, and all supporting documentation provided, the DR&D will provide written notice to the applicant hospital.

1. If the application and required documentation supports conversion to a MRHF, after the effective date of the published rule, the DR&D will provide written notice of the designation to the applicant hospital and HSS.

2. If the application is incomplete or otherwise insufficient to allow designation, the DR&D will provide written notice to the applicant outlining the actions necessary to correct the deficiencies. The hospital may then address the deficiencies and resubmit its application.

E. Once designated, a hospital may apply to the Bureau of Health Services Financing, Health Standards Section (HSS) of the Department of Health and Hospitals for an on-site survey.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (PL 105-33) and Title XVIII of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1479 (August 1999).

§7611. Technical Assistance

A. The DR&D is available to furnish basic technical assistance to hospitals and communities interested in CAH conversion, such as providing program information, helping with interpretation and completion of the application for designation, and identifying other sources of assistance and information.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (PL 105-33) and Title XVIII of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1480 (August 1999).

§7613. Program Monitoring and Evaluation

A. Ongoing monitoring and evaluation of the program will be conducted by the Quality Management Section of the DR&D.

1. Strengths and weaknesses of the program and state policy affecting CAHs will be assessed, with the goal of identifying problem areas and developing solutions.

2. Results will be reported to the DR&D Director who will assign program staff to work with other state agencies and interested parties to determine the necessity of changes and updates to the Plan and state policy.

3. All Plan changes will be forwarded to HCFA for review and approval.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (PL 105-33) and Title XVIII of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1480 (August 1999).

§7615. Process for Conversion Back to a Hospital

A. If a facility has been certified as a CAH and wishes to convert back to a hospital or to another type of provider, the facility must go through the certification process appropriate for that provider type.

1. Conversion to a hospital will not require compliance with the most recent life safety codes if the facility had been "grandfathered" under previous codes. Such facilities will be required, however, to meet the most recent applicable conditions of participation.

2. CAHs considering conversion back to a hospital should notify the DR&D and contact the Bureau of Health Services Financing, HSS for more information.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (PL 105-33) and Title XVIII of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1480 (August 1999).

David W. Hood
Secretary

9908#062

RULE

Department of Health and Hospitals Office of the Secretary

Maternal and Child Health Block
Grant Application FY 1999-2000

The Department of Health and Hospitals (DHH) is applying for Maternal and Child Health (MCH) Block Grant Federal Funding for FY 1999-2000 in accordance with Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, and with federal regulations as set forth in the *Federal Register* Vol. 47, No. 129, Tuesday, July 6, 1982, pages 29472-29493.

DHH will continue to administer programs funded under the MCH Block Grant in accordance with provisions set forth in Public Law 97-35 and the federal regulations. The Office of Public Health is the office responsible for program administration of the grant.

David W. Hood
Secretary

9908#061

RULE

Department of Insurance Office of the Commissioner

Regulation 33 Medicare Supplement Insurance Minimum Standards (LAC 37:XIII.Chapter 5)

(Editor's Note: The following rules, which appeared on pages 1100 through 1142 of the June 20, 1999 *Louisiana Register*, are being republished in their entirety to correct typographical errors.)

Title 37 INSURANCE

Part XIII. Regulations

Chapter 5. Regulation 33—Medicare Supplement Insurance Minimum Standards

§501. Purpose

A. The purpose of this regulation is:

1. to provide for the reasonable standardization of coverage and simplification of terms and benefits of Medicare supplement policies;
2. to facilitate public understanding and comparison of such policies;
3. to eliminate provisions contained in such policies which may be misleading or confusing in connection with the purchase of such policies or with the settlement of claims; and
4. to provide for full disclosures in the sale of accident and sickness insurance coverages to persons eligible for Medicare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1101 (June 1999), repromulgated LR 25:1481 (August 1999).

§502. Applicability and Scope

A. Except as otherwise specifically provided in §§510, 540, 545, 560 and 585, this Regulation shall apply to:

1. all Medicare supplement policies delivered or issued for delivery in this state on or after the effective date of this regulation; and
2. all certificates issued under group Medicare supplement policies which certificates have been delivered or issued for delivery in this state.

B. This regulation shall not apply to a policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1101 (June 1999), repromulgated LR 25:1481 (August 1999).

§503. Definitions

A. For purpose of this regulation:

Applicant means:

- a. in the case of an individual Medicare supplement policy, the person who seeks to contract for insurance benefits; and
- b. in the case of a group Medicare supplement policy, the proposed certificate holder.

Bankruptcy means when a Medicare+Choice organization that is not an issuer has filed, or has had filed against it, a petition for declaration of bankruptcy and has ceased doing business in the state.

Certificate means any certificate delivered or issued for delivery in this state under a group Medicare supplement policy.

Certificate Form means the form on which the certificate is delivered or issued for delivery by the issuer.

Continuous Period of Creditable Coverage means the period during which an individual was covered by creditable coverage, if during the period of the coverage the individual had no breaks in coverage greater than sixty-three (63) days.

Creditable Coverage

- a. means with respect to an individual, coverage of the individual provided under any of the following:
 - i. a group health plan;
 - ii. health insurance coverage;
 - iii. Part A or Part B of Title XVIII of the Social Security Act (Medicare);
 - iv. Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under section 1928;
 - v. Chapter 55 of Title 10 United States Code (CHAMPUS);
 - vi. a medical care program of the Indian Health Service or of a tribal organization;
 - vii. a State health benefits risk pool;
 - viii. a health plan offered under chapter 89 of Title 5 United States Code (Federal Employees Health Benefits Program);
 - ix. a public health plan as defined in federal regulation; and
 - x. a health benefit plan under Section 5(e) of the Peace Corps Act (22 United States Code 2504(e)).
- b. creditable coverage shall not include one or more, or any combination of, the following:
 - i. coverage only for accident or disability income insurance, or any combination thereof;
 - ii. coverage issued as a supplement to liability insurance;
 - iii. liability insurance, including general liability insurance and automobile liability insurance;
 - iv. workers' compensation or similar insurance;
 - v. automobile medical payment insurance;
 - vi. credit-only insurance;
 - vii. coverage for on-site medical clinics; and

viii. other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

c. creditable coverage shall not include the following benefits if they are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of the plan:

i. limited scope dental or vision benefits;

ii. benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and

iii. such other similar, limited benefits as are specified in federal regulations.

d. creditable coverage shall not include the following benefits if offered as independent, noncoordinated benefits:

i. coverage only for a specified disease or illness; and

ii. hospital indemnity or other fixed indemnity insurance.

e. creditable coverage shall not include the following if it is offered as a separate policy, certificate or contract of insurance:

i. Medicare supplemental health insurance as defined under section 1882(g)(1) of the Social Security Act;

ii. coverage supplemental to the coverage provided under chapter 55 of title 10, United States Code; and

iii. similar supplemental coverage provided to coverage under a group health plan.

Employee Welfare Benefit Plan means a plan, fund or program of employee benefits as defined in 29 U.S.C. Section 1002 (Employee Retirement Income Security Act).

Insolvency means the inability to pay its obligations when they are due, or a condition when its admitted assets do not exceed its liabilities plus the greater of:

a. any capital and surplus required by law for its organization; and

b. the total par or stated value of its authorized and issued capital stock.

c. for purposes of this subsection, liabilities shall include but not be limited to reserves required by statute, by general regulations of the Department of Insurance or by specific requirements imposed by the commissioner upon a subject company at the time of admission or subsequent thereto.

Issuer includes insurance companies, fraternal benefit societies, health care service plans, health maintenance organizations, and any other entity authorized to deliver or issue for delivery in this state Medicare supplement policies or certificates.

Medicare means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

Medicare+Choice Plan means a plan of coverage for health benefits under Medicare Part C as defined in Section 1859 found in Title IV, Subtitle A, Chapter 1 of P.L. 105-33, and includes:

a. coordinated care plans which provide health care services, including but not limited to health maintenance organization plans (with or without a point-of-service

option), plans offered by provider-sponsored organizations, and preferred provider organization plans;

b. medical savings account plans coupled with a contribution into a Medicare+Choice medical savings account; and

c. Medicare+Choice private fee-for-service plans.

Medicare Supplement Policy—means a group or individual policy of health insurance or a subscriber contract of hospital and medical service associations or health maintenance organizations, other than a policy issued pursuant to a contract under Section 1876 of the federal Social Security Act (42 U.S.C. Section 1395 et. seq.) or an issued policy under a demonstration project specified in 42 U.S.C. § 1395ss(g)(1), which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare. Also, it includes those plans commonly known as health care prepayment plans (HCCPPs).

Policy Form means the form on which the policy is delivered or issued for delivery by the issuer.

Qualified Actuary means an actuary who is a member of either the Society of Actuaries or the American Academy of Actuaries.

Secretary means the Secretary of the United States Department of Health and Human Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 43 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1102 (June 1999), repromulgated LR 25:1481 (August 1999).

§504. Policy Definitions and Terms

A. No policy or certificate may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy or certificate unless the policy or certificate contains definitions or terms which conform to the requirements of this section.

Accident, Accidental Injury, or Accidental Means shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words or description or characterization.

a. The definition shall not be more restrictive than the following:

"Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force."

b. The definition may provide that injuries shall not include injuries for which benefits are provided or available under any workers' compensation, employer's liability or similar law, or motor vehicle no-fault plan, unless prohibited by law.

Benefit Period or Medicare Benefit Period shall not be defined more restrictively than as defined in the Medicare program.

Convalescent Nursing Home, Extended Care Facility, or Skilled Nursing Facility shall not be defined more restrictively than as defined in the Medicare program.

Health Care Expenses means expenses of health maintenance organizations associated with the delivery of

health care services, which expenses are analogous to incurred losses of insurers. Expenses shall not include:

- a. home office and overhead costs;
- b. advertising costs;
- c. commissions and other acquisition costs;
- d. taxes;
- e. capital costs;
- f. administrative costs; and
- g. claims processing costs.

Hospital may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals, but not more restrictively than as defined in the Medicare program.

Medicare shall be defined in the policy and certificate. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.

Medicare Eligible Expenses shall mean expenses of the kinds covered by Medicare, to the extent recognized as reasonable and medically necessary by Medicare.

Physician shall not be defined more restrictively than as defined in the Medicare program.

Sickness shall not be defined to be more restrictive than the following.

a. Sickness means illness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force.

b. The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability or similar law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1102 (June 1999), repromulgated LR 25:1482 (August 1999).

§505. Policy Provisions

A. Except for permitted preexisting condition clauses as described in §510.A.1 and §515.A.1 of this regulation, no policy or certificate may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy if the policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

B. No Medicare supplement policy or certificate may use waivers to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

C. No Medicare supplement policy or certificate in force in the state shall contain benefits which duplicate benefits provided by Medicare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1102 (June 1999), repromulgated LR 25:1483 (August 1999).

§506. Reserved.

§507. Reserved.

§508. Reserved.

§509. Reserved.

§510. Minimum Benefit Standards for Policies or Certificates Issued for Delivery Prior to July 20, 1992

A. No policy or certificate may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy or certificate unless it meets or exceeds the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards.

1. General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

a. A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

b. A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

d. A noncancellable, guaranteed renewable, or noncancellable and guaranteed renewable Medicare supplement policy shall not:

i. provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium; or

ii. be cancelled or nonrenewed by the issuer solely on the grounds of deterioration of health.

e.i. Except as authorized by the Commissioner of this state, an issuer shall neither cancel nor nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

ii. If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in §510.A.1.e.iv, the issuer shall offer certificate holders an individual Medicare supplement policy. The issuer shall offer the certificate holder at least the following choices:

(a). an individual Medicare supplement policy currently offered by the issuer having comparable benefits to those contained in the terminated group Medicare supplement policy; and

(b). an individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards as defined in §515.A.2 of this regulation.

(c). Group contracts in force prior to the effective date of the Omnibus Budget Reconciliation Act (OBRA) of 1990 may have existing contractual obligations to continue benefits contained in the group contract. This section is not intended to impair those obligations.

iii. If membership in a group is terminated, the issuer shall:

(a). offer the certificate holder the conversion opportunities described in §510.A.1.e.ii; or

(b). at the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy.

iv. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

f. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or to payment of the maximum benefits.

2. Minimum Benefit Standards

a. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

b. Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount;

c. Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

d. Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety percent (90%) of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

e. Coverage under Medicare Part A for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B;

f. Coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible [\$100];

g. Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1103 (June 1999), repromulgated LR 25:1483 (August 1999).

§511. Reserved.

§512. Reserved.

§513. Reserved.

§514. Reserved.

§515. Benefit Standards for Policies or Certificates Issued or Delivered on or After July 20, 1992

A. The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after July 20, 1992. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards.

1. General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

a. A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

b. A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

d. No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

e. Each Medicare supplement policy shall be guaranteed renewable.

i. The issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual;

ii. The issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation;

iii. If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under §515.A.5.e.v, the issuer shall offer certificate holders an individual Medicare supplement policy which (at the option of the certificate holder):

(a). provides for continuation of the benefits contained in the group policy; or

(b). provides for benefits that otherwise meet the requirements of this subsection.

iv. if an individual is a certificate holder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall:

(a). offer the certificate holder the conversion opportunity described in §515.A.1.e.iii; or

(b). at the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy.

v. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

f. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

g.i. A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificate holder for the period (not to exceed twenty-four (24) months), or upon discovering thereof by the insurer in which the policyholder or certificate holder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificate holder notifies the issuer of the policy or certificate within ninety (90) days after the date the individual becomes entitled to assistance.

ii. If suspension occurs and if the policyholder or certificate holder loses entitlement to medical assistance, the policy or certificate shall be automatically reinstated (effective as of the date of termination of such entitlement) as of the termination of entitlement if the policyholder or certificate holder provides notice of loss of entitlement within ninety (90) days after the date of loss and pays the premium attributable to the period, effective as of the date of termination of entitlement.

iii. Reinstitution of coverages:

(a). shall not provide for any waiting period with respect to treatment of preexisting conditions;

(b). shall provide for coverage which is substantially equivalent to coverage in effect before the date of suspension; and

(c). shall provide for classification of premiums on terms at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage not been suspended.

2. Standards for Basic (Core) Benefits Common to All Benefit Plans. Every issuer shall make available a policy or certificate including only the following basic core package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare Supplement Insurance Benefit Plans in addition to the basic core package, but not in lieu of it.

a. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

b. Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used;

c. Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of the Medicare Part A eligible expenses for hospitalization paid at the diagnostic related group (DRG) day outlier per diem or other appropriate standard of payment, subject to a lifetime maximum benefit of an additional 365 days;

d. Coverage under Medicare Parts A and B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations;

e. Coverage for the coinsurance amount (or, in the case of hospital outpatient department services under a prospective payment system, the copayment amount) of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible;

3. Standards for Additional Benefits. The following additional benefits shall be included in Medicare Supplement Benefit Plans "B" through "J" only as provided by §520 of this regulation.

Medicare Part A Deductible coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period.

Skilled Nursing Facility Care coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A.

Medicare Part B Deductible coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

Eighty Percent (80%) of the Medicare Part B Excess Charges coverage for eighty percent (80%) of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

One Hundred Percent (100%) of the Medicare Part B Excess Charges coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

Basic Outpatient Prescription Drug Benefit coverage for fifty percent (50%) of outpatient prescription drug charges, after a two hundred fifty dollar (\$250) calendar year deductible, to a maximum of one thousand two hundred fifty dollars (\$1,250) in benefits received by the insured per calendar year, to the extent not covered by Medicare.

Extended Outpatient Prescription Drug Benefit coverage for fifty percent (50%) of outpatient prescription drug charges, after a two hundred fifty dollar (\$250) calendar year deductible to a maximum of three thousand dollars (\$3,000) in benefits received by the insured per calendar year, to the extent not covered by Medicare.

Medically Necessary Emergency Care in a Foreign Country coverage to the extent not covered by Medicare for eighty percent (80%) of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician, and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first sixty (60) consecutive days of each trip outside the United States, subject to a calendar year deductible of two hundred fifty dollars (\$250), and a lifetime maximum benefit of fifty thousand dollars (\$50,000). For purposes of this benefit, "emergency care" shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

Preventive Medical Care Benefit coverage for the following preventive health services:

i. an annual clinical preventive medical history and physical examination that may include tests and services from Subparagraph (b) and patient education to address preventive health care measures;

ii. any one or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:

(a). fecal occult blood test or digital rectal examination, or both;

(b). mammogram;

(c). dipstick urinalysis for hematuria, bacteriuria and proteinuria;

(d). pure tone (air only) hearing screening test, administered or ordered by a physician;

(e). serum cholesterol screening (every five (5) years);

(f). thyroid function test;

(g). diabetes screening.

iii. influenza vaccine administered at any appropriate time during the year and tetanus and diphtheria booster (every ten (10) years);

iv. any other tests or preventive measures determined appropriate by the attending physician.

Reimbursement shall be for the actual charges up to one hundred percent (100%) of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, to a maximum of one hundred twenty dollars (\$120) annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare.

At-Home Recovery Benefit coverage for services to provide short term, at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery.

i. For purposes of this benefit, the following definitions shall apply:

Activities of Daily Living include, but are not limited to bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings.

Care Provider means a duly qualified or licensed home health aide or homemaker, personal care aide or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

Home shall mean any place used by the insured as a place of residence, provided that such place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence.

At-Home Recovery Visit means the period of a visit required to provide at home recovery care, without limit on the duration of the visit, except each consecutive four (4) hours in a twenty-four-hour period of services provided by a care provider is one visit.

ii. Coverage Requirements and Limitations

(a). At-home recovery services provided must be primarily services which assist in activities of daily living.

(b). The insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare.

(c). Coverage is limited to:

(i). no more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare approved home health care visits under a Medicare approved home care plan of treatment;

(ii). the actual charges for each visit up to a maximum reimbursement of forty dollars (\$40) per visit;

(iii). one thousand six hundred dollars (\$1,600) per calendar year;

(iv). seven (7) visits in any one week;

(v). care furnished on a visiting basis in the insured's home;

(vi). services provided by a care provider as defined in this section;

(vii). at-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded;

(viii). at-home recovery visits received during the period the insured is receiving Medicare approved home care services or no more than eight (8) weeks after the service date of the last Medicare approved home health care visit.

iii. Coverage is excluded for:

(a). home care visits paid for by Medicare or other government programs; and

(b). care provided by family members, unpaid volunteers, or providers who are not care providers.

New or Innovative Benefits an issuer may, with the prior approval of the Commissioner, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost-effective, and offered in a manner which is consistent with the goal of simplification of Medicare supplement policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1104 (June 1999), repromulgated LR 25:1484 (August 1999).

§516. Reserved.

§517. Reserved.

§518. Reserved.

§519. Reserved.

§520. Standard Medicare Supplement Benefit Plans

A. An issuer shall make available to each prospective policyholder and certificate holder a policy form or certificate form containing only the basic core benefits, as defined in §515.A.2 of this regulation.

B. No groups, packages or combinations of Medicare supplement benefits other than those listed in this section shall be offered for sale in this state, except as may be permitted in §515.A.3.*New and Innovative Benefits* and in §525 of this regulation.

C. Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans "A" through "J" listed in this subsection and conform to the definitions in §503 of this regulation. Each benefit shall be structured in accordance with the format provided in §515.A.2 and §515.A.3 and list the benefits in the order shown in this subsection. For purposes of this section, "structure, language, and format" means style, arrangement and overall content of a benefit.

D. An issuer may use, in addition to the benefit plan designations required in Subsection C, other designations to the extent permitted by law.

E. Make-up of Benefit Plans

1. Standardized Medicare supplement benefit plan "A" shall be limited to the basic (core) benefits common to all benefit plans, as defined in §515.A.2 of this regulation.

2. Standardized Medicare supplement benefit plan "B" shall include only the following: The core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible as defined in §515.A.3.*Medicare Part A Deductible*.

3. Standardized Medicare supplement benefit plan "C" shall include only the following: the core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible and medically necessary emergency care in a foreign country, as defined in §515.A.3.*Medicare Part A Deductible, Skilled Nursing Facility Care, Medicare Part B Deductible and Medically Necessary Emergency Care in a Foreign Country* respectively.

4. Standardized Medicare supplement benefit plan "D" shall include only the following: the core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in §515.A.3.*Medicare Part A Deductible, Skilled Nursing Facility Care, Medically Necessary Emergency Care in a Foreign Country, and At-Home Recovery Benefit*, respectively.

5. Standardized Medicare supplement benefit plan "E" shall include only the following: the core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and preventive medical care as defined in §515.A.3.*Medicare Part A Deductible,*

Skilled Nursing Facility Care, Medically Necessary Emergency Care in a Foreign Country, and Preventive Medical Care Benefit, respectively.

6. Standardized Medicare supplement benefit plan "F" shall include only the following: the core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible, the skilled nursing facility care, the Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country, as defined in §515.A.3.*Medicare Part A Deductible, Skilled Nursing Facility Care, Medicare Part B Deductible, One Hundred Percent (100%) of the Medicare Part B Excess Charges, and Medically Necessary Emergency Care in a Foreign Country*, respectively.

7. Standardized Medicare supplement benefit high deductible plan "F" shall include only the following: 100% of covered expenses following the payment of the annual high deductible plan "F" deductible. The covered expenses include the core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, the Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in §515.A.3.*Medicare Part A Deductible, Skilled Nursing Facility Care, Medicare Part B Deductible, One Hundred Percent (100%) of the Medicare Part B Excess Charges, and Medically Necessary Emergency Care in a Foreign Country* respectively. The annual high deductible plan "F" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "F" policy, and shall be in addition to any other specific benefit deductibles. The annual high deductible Plan "F" deductible shall be \$1500 for 1998 and 1999, and shall be based on the calendar year. It shall be adjusted annually thereafter by the Secretary to reflect the change in the Consumer Price Index for all urban consumers for the twelve-month period ending with August of the preceding year, and rounded to the nearest multiple of \$10.

8. Standardized Medicare supplement benefit plan "G" shall include only the following: the core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, eighty percent (80%) of the Medicare Part B excess charges, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in §515.A.3.*Medicare Part A Deductible, Skilled Nursing Facility Care, Eighty Percent (80%) of the Medicare Part B Excess Charges, Medically Necessary Emergency Care in a Foreign Country*, respectively.

9. Standardized Medicare supplement benefit plan "H" shall consist of only the following: The core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, basic outpatient prescription drug benefit, and medically necessary emergency care in a foreign country, as defined in §515.A.3.*Medicare Part A Deductible, Skilled Nursing Facility Care, Basic Outpatient Prescription Drug Benefit and Medically Necessary Emergency Care in a Foreign Country*, respectively.

10. Standardized Medicare supplement benefit plan "I" shall consist of only the following: The core benefit as

defined in §515.A.2. of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, one hundred percent (100%) of the Medicare Part B excess charges, basic outpatient prescription drug benefit, medically necessary emergency care in a foreign country and at-home recovery benefit as defined in §515.A.3. *Medicare Part A Deductible, Skilled Nursing Facility Care, One Hundred Percent (100%) of the Medicare Part B Excess Charges, Basic Outpatient Prescription Drug Benefit, Medically Necessary Care in a Foreign Country and At-Home Recovery Benefit*, respectively.

11. Standardized Medicare supplement benefit plan "J" shall consist of only the following: The core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, extended prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care and at-home recovery benefit as defined in §515.A.3. *Medicare Part A Deductible, Skilled Nursing Facility Care, Medicare Part B Deductible, One Hundred Percent (100%) of the Medicare Part B Excess Charges, Extended Outpatient Prescription Drug Benefit, Medically Necessary Emergency Care in a Foreign Country, Preventive Medical Care Benefit and At-Home Recovery Benefit*, respectively.

12. Standardized Medicare supplement benefit high deductible plan "J" shall consist of only the following: 100% of covered expenses following the payment of the annual high deductible plan "J" deductible. The covered expenses include the core benefit as defined in §515.A.2 of this regulation, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, extended outpatient prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care benefit and at-home recovery benefit as defined in §515.A.3. *Medicare Part A Deductible, Skilled Nursing Facility Care, Medicare Part B Deductible, One Hundred Percent (100%) of the Medicare Part B Excess Charges, Extended Outpatient Prescription Drug Benefit, Medically Necessary Emergency Care in a Foreign Country, Preventive Medical Care Benefit and At-Home Recovery Benefit* respectively. The annual high deductible plan "J" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "J" policy, and shall be in addition to any other specific benefit deductibles. The annual deductible shall be \$1500 for 1998 and 1999, and shall be based on a calendar year. It shall be adjusted annually thereafter by the Secretary to reflect the change in the Consumer Price Index for all urban consumers for the twelve-month period ending with August of the preceding year, and rounded to the nearest multiple of \$10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1106 (June 1999), repromulgated LR 25:1487 (August 1999).

§521. **Reserved.**

§522. **Reserved.**

§523. **Reserved.**

§524. **Reserved.**

§525. **Medicare Select Policies and Certificates**

A.1. This section shall apply to Medicare Select policies and certificates, as defined in this Section.

2. No policy or certificate may be advertised as a Medicare Select policy or certificate unless it meets the requirements of this Section.

B. For the purposes of this Section:

Complaint means any dissatisfaction expressed by an individual concerning a Medicare Select issuer or its network providers.

Grievance means dissatisfaction expressed in writing by an individual insured under a Medicare Select policy or certificate with the administration, claims practices, or provision of services concerning a Medicare Select issuer or its network providers.

Medicare Select Issuer means an issuer offering, or seeking to offer, a Medicare Select policy or certificate.

Medicare Select Policy or *Medicare Select Certificate* means respectively a Medicare supplement policy or certificate that contains restricted network provisions.

Network Provider means a provider of health care, or a group of providers of health care, which has entered into a written agreement with the issuer to provide benefits insured under a Medicare Select policy.

Restricted Network Provision means any provision which conditions the payment of benefits, in whole or in part, on the use of network providers.

Service Area means the geographic area approved by the Commissioner within which an issuer is authorized to offer a Medicare Select policy.

C. The Commissioner may authorize an issuer to offer a Medicare Select policy or certificate, pursuant to this section and Section 4358 of the Omnibus Budget Reconciliation Act (OBRA) of 1990 if the Commissioner finds that the issuer has satisfied all of the requirements of this regulation.

D. A Medicare Select issuer shall not issue a Medicare Select policy or certificate in this state until its plan of operation has been approved by the Commissioner.

E. A Medicare Select issuer shall file a proposed plan of operation with the Commissioner in a format prescribed by the Commissioner. The plan of operation shall contain at least the following information:

1. evidence that all covered services that are subject to restricted network provisions are available and accessible through network providers, including a demonstration that:

a. services can be provided by network providers with reasonable promptness with respect to geographic location, hours of operation and after-hour care. The hours of operation and availability of after-hour care shall reflect usual practice in the local area. Geographic availability shall reflect the usual travel times within the community.

b. the number of network providers in the service area is sufficient, with respect to current and expected policyholders, either:

- i. to deliver adequately all services that are subject to a restricted network provision; or
- ii. to make appropriate referrals.
- c. there are written agreements with network providers describing specific responsibilities.
- d. emergency care is available twenty-four (24) hours per day and seven (7) days per week.
- e. in the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, there are written agreements with network providers prohibiting the providers from billing or otherwise seeking reimbursement from or recourse against any individual insured under a Medicare Select policy or certificate. This paragraph shall not apply to supplemental charges or coinsurance amounts as stated in the Medicare Select policy or certificate.
- 2. a statement or map providing a clear description of the service area.
- 3. a description of the grievance procedure to be utilized.
- 4. a description of the quality assurance program, including:
 - a. the formal organizational structure;
 - b. the written criteria for selection, retention and removal of network providers; and
 - c. the procedures for evaluating quality of care provided by network providers, and the process to initiate corrective action when warranted.
- 5. a list and description, by specialty, of the network providers.
- 6. copies of the written information proposed to be used by the issuer to comply with §525.I.
- 7. any other information requested by the Commissioner.

F.1. A Medicare Select issuer shall file any proposed changes to the plan of operation, except for changes to the list of network providers, with the Commissioner prior to implementing the changes. Changes shall be considered approved by the Commissioner after thirty (30) days unless specifically disapproved.

2. An updated list of network providers shall be filed with the Commissioner at least quarterly.

G. A Medicare Select policy or certificate shall not restrict payment for covered services provided by non-network providers if:

1. the services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury or a condition; and

2. it is not reasonable to obtain such services through a network provider.

H. A Medicare Select policy or certificate shall provide payment for full coverage under the policy for covered services that are not available through network providers.

I. A Medicare Select issuer shall make full and fair disclosure, in writing, of the provisions, restrictions, and limitations of the Medicare Select policy or certificate to each applicant. This disclosure shall include at least the following:

1. an outline of coverage sufficient to permit the applicant to compare the coverage and premiums of the Medicare Select policy or certificate with:

- a. other Medicare supplement policies or certificates offered by the issuer; and
- b. other Medicare Select policies or certificates;
- 2. a description (including address, phone number and hours of operation) of the network providers, including primary care physicians, specialty physicians, hospitals and other providers;
- 3. a description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are utilized;
- 4. a description of coverage for emergency and urgently needed care and other out-of-service area coverage;
- 5. a description of limitations on referrals to restricted network providers and to other providers;
- 6. a description of the policyholder's rights to purchase any other Medicare supplement policy or certificate otherwise offered by the issuer;
- 7. a description of the Medicare Select issuer's quality assurance program and grievance procedure.

J. Prior to the sale of a Medicare Select policy or certificate, a Medicare Select issuer shall obtain from the applicant a signed and dated form stating that the applicant has received the information provided pursuant to Subsection I of this section and that the applicant understands the restrictions of the Medicare Select policy or certificate.

K. A Medicare Select issuer shall have and use procedures for hearing complaints and resolving written grievances from the subscribers. The procedures shall be aimed at mutual agreement for settlement and may include arbitration procedures.

1. The grievance procedure shall be described in the policy and certificates and in the outline of coverage.

2. At the time the policy or certificate is issued, the issuer shall provide detailed information to the policyholder describing how a grievance may be registered with the issuer.

3. Grievances shall be considered in a timely manner and shall be transmitted to appropriate decision-makers who have authority to fully investigate the issue and take corrective action.

4. If a grievance is found to be valid, corrective action shall be taken promptly.

5. All concerned parties shall be notified about the results of a grievance.

6. The issuer shall report no later than each March 31st to the Commissioner regarding its grievance procedure. The report shall be in a format prescribed by the Commissioner and shall contain the number of grievances filed in the past year and a summary of the subject, nature and resolution of such grievances.

L. At the time of initial purchase, a Medicare Select issuer shall make available to each applicant for a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate otherwise offered by the issuer.

M.1. At the request of an individual insured under a Medicare Select policy or certificate, a Medicare Select issuer shall make available to the individual insured the opportunity to purchase a Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted

network provision. The issuer shall make such policies or certificates available without requiring evidence of insurability after the Medicare Select policy or certificate has been in force for six (6) months.

2. For the purposes of this Subsection, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of this Paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services or coverage for Part B excess charges.

N. Medicare Select policies and certificates shall provide for continuation of coverage in the event the Secretary of Health and Human Services determines that Medicare Select policies and certificates issued pursuant to this Section should be discontinued due to either the failure of the Medicare Select Program to be reauthorized under law or its substantial amendment.

1. Each Medicare Select issuer shall make available to each individual insured under a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make the policies and certificates available without requiring evidence of insurability.

2. For the purposes of this Subsection, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of this Paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services or coverage for Part B excess charges.

O. A Medicare Select issuer shall comply with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare Select Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1108 (June 1999), repromulgated LR 25:1488 (August 1999).

§526. Reserved.

§527. Reserved.

§528. Reserved.

§529. Reserved.

§530. Open Enrollment

A. An issuer shall not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in this state, nor discriminate in the pricing of a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the six (6) month period beginning with the first day of the first month in which an individual is enrolled for benefits under Medicare Part B. Each Medicare supplement policy and certificate currently available from an insurer shall be made

available to all applicants who qualify under this Subsection without regard to age.

B.1. If an applicant qualifies under Subsection A and submits an application during the time period referenced in Subsection A and, as of the date of application, has had a continuous period of creditable coverage of at least six (6) months, the issuer shall not exclude benefits based on a preexisting condition.

2. If the applicant qualifies under Subsection A and submits an application during the time period referenced in Subsection A and, as of the date of application, has had a continuous period of creditable coverage that is less than six (6) months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The Secretary shall specify the manner of the reduction under this Subsection.

C. Except as provided in Subsection B and §590, Subsection A shall not be construed as preventing the exclusion of benefits under a policy, during the first six (6) months, based on a preexisting condition for which the policyholder or certificate holder received treatment or was otherwise diagnosed during the six (6) months before the coverage became effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1110 (June 1999), repromulgated LR 25:1490 (August 1999).

§531. Reserved.

§532. Reserved.

§533. Reserved.

§534. Reserved.

§535. Guaranteed Issue for Eligible Persons

A. Guaranteed Issue

1. Eligible persons are those individuals described in subsection B who apply to enroll under the policy not later than sixty-three (63) days after the date of the termination of enrollment described in subsection B, and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy.

2. With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement policy described in Subsection C that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy.

B. Eligible Person. An eligible person is an individual described in any of the following paragraphs.

1. The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare; and the plan terminates, or the plan ceases to provide some or all such supplemental health benefits to the individual; or the individual is enrolled under an employee welfare benefit plan that is primary to Medicare and the plan terminates or the plan ceases to provide some or all health benefits to the individual because the individual leaves the plan;

2. The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under part C of Medicare, and any of the following circumstances apply:

a. The organization's or plan's certification [under this part] has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;

b. The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the Secretary, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under section 1856), or the plan is terminated for all individuals within a residence area;

c. The individual demonstrates, in accordance with guidelines established by the Secretary, that:

i. the organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or

ii. the organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or

d. The individual meets such other exceptional conditions as the Secretary may provide.

3.a. The individual is enrolled with:

i. an eligible organization under a contract under Section 1876 (Medicare risk or cost);

ii. a similar organization operating under demonstration project authority, effective for periods before April 1, 1999;

iii. an organization under an agreement under Section 1833(a)(1)(A) (health care prepayment plan); or

iv. an organization under a Medicare Select policy; and

b. the enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under §535.B.2.

4. The individual is enrolled under a Medicare supplement policy and the enrollment ceases because:

a.i. of the insolvency of the issuer or bankruptcy of the nonissuer organization; or

ii. of other involuntary termination of coverage or enrollment under the policy;

b. the issuer of the policy substantially violated a material provision of the policy; or

c. the issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual;

5.a. The individual was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any Medicare+Choice organization under a Medicare+Choice plan under part C of Medicare, any eligible organization under a contract under Section 1876 (Medicare risk or cost), any similar organization operating under demonstration

project authority, an organization under an agreement under section 1833(a)(1)(A) (health care prepayment plan), or a Medicare Select policy; and

b. the subsequent enrollment under subparagraph (a) is terminated by the enrollee during any period within the first twelve (12) months of such subsequent enrollment (during which the enrollee is permitted to terminate such subsequent enrollment under section 1851(e) of the federal Social Security Act); or

6. the individual, upon first becoming enrolled for benefits under Medicare part B, enrolls in a Medicare+Choice plan under part C of Medicare, and disenrolls from the plan by not later twelve (12) months after the effective date of enrollment.

C. Products to Which Eligible Persons are Entitled. The Medicare supplement policy to which eligible persons are entitled under:

1. Section 535.B.1.2.3 and 4 is a Medicare supplement policy which has a benefit package classified as Plan A, B, C, or F offered by any issuer.

2. Section 535.B.5 is the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in §535.C.1.

3. Section 535.B.6 shall include any Medicare supplement policy available by any issuer.

D. Notification provisions

1. At the time of an event described in Subsection B of this Section because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under this Section, and of the obligations of issuers of Medicare supplement policies under Subsection A. Such notice shall be communicated contemporaneously with the notification of termination.

2. At the time of an event described in Subsection B of this Section because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this Section, and of the obligations of issuers of Medicare supplement policies under §535.A. Such notice shall be communicated within ten working days of the issuer receiving notification of disenrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1110 (June 1999), repromulgated LR 25:1490 (August 1999).

§536. Reserved.

§537. Reserved.

§538. Reserved.

§539. Reserved.

§540. Standards for Claims Payment

A. An issuer shall comply with section 1882(c)(3) of the Social Security Act (as enacted by section 4081(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1987 (OBRA) 1987, Pub. L. No. 100-203) by:

1. accepting a notice from a Medicare carrier on dually assigned claims submitted by participating physicians and suppliers as a claim for benefits in place of any other claim form otherwise required and making a payment determination on the basis of the information contained in that notice;

2. notifying the participating physician or supplier and the beneficiary of the payment determination;

3. paying the participating physician or supplier directly;

4. furnishing, at the time of enrollment, each enrollee with a card listing the policy name, number, and a central mailing address to which notices from a Medicare carrier may be sent;

5. paying user fees for claim notices that are transmitted electronically or otherwise; and

6. providing to the Secretary of Health and Human Services, at least annually, a central mailing address to which all claims may be sent by Medicare carriers.

B. Compliance with the requirements set forth in Subsection A above shall be certified on the Medicare supplement insurance experience reporting form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1111 (June 1999), repromulgated LR 25:1491 (August 1999).

§541. Reserved.

§542. Reserved.

§543. Reserved.

§544. Reserved.

§545. Loss Ratio Standards and Refund or Credit of Premium

A. Loss Ratio Standards

1.a. A Medicare Supplement policy form or certificate form shall not be delivered or issued for delivery unless the policy form or certificate form can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to policyholders and certificate holders in the form of aggregate benefits (not including anticipated refunds or credits) provided under the policy form or certificate form:

i. at least seventy-five percent (75%) of the aggregate amount of premiums earned in the case of group policies; or

ii. at least sixty-five percent (65%) of the aggregate amount of premiums earned in the case of individual policies;

b. Calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for the period and in accordance with accepted actuarial principles and practices.

2. All filings of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this Section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

3. For purposes of applying Subsection A.1 of this Section and §550.C.3. only, policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies.

4. For policies issued prior to January 20, 1991, expected claims in relation to premiums shall meet:

a. the originally filed anticipated loss ratio when combined with the actual experience since inception;

b. the appropriate loss ratio requirement from §545.A.1.a.i. and ii. when combined with actual experience beginning with January 1, 1998 to date; and

c. the appropriate loss ratio requirement from §545.A.1.a.i. and ii. over the entire future period for which the rates are computed to provide coverage.

B. Refund or Credit Calculation

1. An issuer shall collect and file with the Commissioner by May 31 of each year the data contained in the applicable reporting form contained in Appendix A for each type in a standard Medicare supplement benefit plan.

2. If, on the basis of the experience as reported, the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since inception (ratio 3), then a refund or credit calculation is required. The refund calculation shall be done on a statewide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded.

3. For the purposes of this Section, policies or certificates issued prior to January 20, 1991, the issuer shall make the refund or credit calculation separately for all individual policies (including all group policies subject to an individual loss ratio standard when issued) combined and all other group policies combined for experience after January 1, 1998. The first report shall be due by May 31, 2000.

4. A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credited exceeds a *de minimis* level. The refund shall include interest from the end of the calendar year to the date of the refund or credit at a rate specified by the Secretary of Health and Human Services, but in no event shall it be less than the average rate of interest for thirteen-week Treasury notes. A refund or credit against premiums due shall be made by September 30 following the experience year upon which the refund or credit is based.

C. Filing of Rates and Rating Schedules. All filings of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this Section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

1. Each Medicare supplement policy or certificate form shall be accompanied, upon submission for approval, by an original and one copy of an actuarial memorandum. The memorandum shall be prepared, signed and dated by a qualified actuary in accordance with generally accepted actuarial principles and practices. The filing shall contain at least the information listed in the following subparagraphs:

- a. the form number that the actuarial memorandum addresses;
- b. a brief description of benefits provided;
- c. a schedule of rates to be used;
- d. a certification that the anticipated lifetime loss ratio is at least 65% (for individual coverage) or at least 75% (for group coverage);
- e. a table of anticipated loss ratio experience for each year from issue over a reasonable number of years;
- f. a certification that the premiums are reasonable in relation to the benefits provided; and
- g. the memorandum shall be filed in duplicate;
- h. any additional information requested by the Commissioner.

2. Subsequent rate adjustments filings, except for those rates filed solely due to a change in the Part A calendar year deductible, shall also provide an original and one copy of an actuarial memorandum, prepared, signed and dated by a qualified actuary, in accordance with generally accepted actuarial principles and practices. The filing shall contain at least the following:

- a. the form number addressed by the actuarial memorandum;
- b. a brief description of benefits provided;
- c. a schedule of rates before and after the rate change;
- d. a statement of the reason and basis for the rate change;
- e. a demonstration and certification by the qualified actuary showing that the past plus future expected experience after the rate change will result in an aggregate loss ratio equal to, or greater than, the required minimum aggregate loss ratio;
 - i. this rate change and demonstration shall be based on the experience of the named form in Louisiana only, if that experience is credible.
 - ii. the rate change and demonstration shall be based on experience of the named form nationwide, if the named form is used nationwide and the Louisiana experience is not credible, but the nationwide experience is credible.
- f. for policies or certificates in force less than three years, a demonstration shall be included to show that the third-year loss ratio is expected to be equal to, or greater than, the applicable percentage;
- g. a certification by the qualified actuary that the resulting premiums are reasonable in relation to the benefits provided;
- h. the memorandum shall be filed in duplicate;
- i. any additional information requested by the Commissioner.

3.a. An issuer of Medicare supplement policies and certificates issued before or after the effective date of Regulation 33 (Revised, 1992) in this state shall file annually no later than December 31 its rates for the upcoming calendar year. Also, supporting documentation including ratios of incurred losses to earned premiums by policy duration shall be submitted for approval by the Commissioner. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire

period for which rates are computed. The demonstration shall exclude active life reserves. An expected third-year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three (3) years.

b. The filing for purposes of this subsection shall contain all Medicare supplement plans issued by the issuer and shall not include rate adjustments. An actuarial memorandum shall be prepared, signed and dated by a qualified actuary in accordance with generally accepted actuarial principles and practices. The filing shall contain at least the following:

- i. the form number for each plan;
- ii. plan type designation (for example: Plan A, Plan B, Pre-standardized);
- iii. the rates for each plan;
- iv. yearly loss ratios for each plan;
- v. lifetime expected loss ratios for each plan;
- vi. identify filing as "ANNUAL MEDICARE SUPPLEMENT FILING" on the face page of the memorandum.
- vii. the memorandum shall be filed in duplicate;
- viii. any additional information requested by the Commissioner.

4. As soon as practicable, but prior to the effective date of enhancements in Medicare benefits, every issuer of Medicare supplement policies or certificates in this state shall file with the Commissioner, in accordance with the applicable filing procedures of this state:

- a.i. appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable policies or certificates. The supporting documents necessary to justify the adjustment shall accompany the filing.
- ii. an issuer shall make premium adjustments necessary to produce an expected loss ratio under the policy or certificate to conform to minimum loss ratio standards for Medicare supplement policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the issuer for the Medicare supplement policies or certificates. No premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described herein shall be made with respect to a policy at any time other than upon its renewal date or anniversary date.
- iii. if an issuer fails to make premium adjustments acceptable to the Commissioner, the Commissioner may order premium adjustments, refunds or premium credits deemed necessary to achieve the loss ratio required by this Section.

b. any appropriate riders, endorsements or policy forms needed to accomplish the Medicare supplement policy or certificate modifications necessary to eliminate benefit duplications with Medicare. The riders, endorsements or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or certificate.

D. Public Hearings. The Commissioner may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for a policy form or certificate form issued before or after the effective date of Regulation 33 as revised July 20, 1992 if the experience of

the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance is made without consideration of any refund or credit for the reporting period. Public notice of the hearing shall be furnished in a manner deemed appropriate by the Commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1112 (June 1999), repromulgated LR 25:1492 (August 1999).

§546. Reserved.

§547. Reserved.

§548. Reserved.

§549. Reserved.

§550. Filing and Approval of Policies and Certificates and Premium Rates

A. An issuer shall not deliver or issue for delivery a policy or certificate to a resident of this state unless the policy form or certificate form has been filed with and approved by the Commissioner in accordance with filing requirements and procedures prescribed by the Commissioner.

B. An issuer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule and supporting documentation have been filed with and approved by the Commissioner in accordance with the filing requirements and procedures prescribed by the Commissioner.

C.1. Except as provided in C.2 of this Subsection, an issuer shall not file for approval more than one form of a policy or certificate of each type for each standard Medicare supplement benefit plan.

2. An issuer may offer, with the approval of the Commissioner, up to four (4) additional policy forms or certificate forms of the same type for the same standard Medicare supplement benefit plan, one for each of the following cases:

- a. the inclusion of new or innovative benefits;
- b. the addition of either direct response or agent marketing methods;
- c. the addition of either guaranteed issue or underwritten coverage;
- d. the offering of coverage to individuals eligible for Medicare by reason of disability.

3. For the purposes of this Section, a "type" means an individual policy, a group policy, an individual Medicare Select policy, or a group Medicare Select policy.

D.1. Except as provided in D.1.a, an issuer shall continue to make available for purchase any policy form or certificate form issued after the effective date of this regulation that has been approved by the Commissioner. A policy form or certificate form shall not be considered to be available for purchase unless the issuer has actively offered it for sale in the previous twelve (12) months.

a. An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the Commissioner, in writing, its decision at least thirty (30) days prior to discontinuing the availability of the form of the policy or certificate. After receipt of the notice by the Commissioner, the issuer shall no longer offer for sale the policy form or certificate form in this state.

b. An issuer that discontinues the availability of a policy form or certificate form pursuant to Subparagraph (a) shall not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for a period of five (5) years after the issuer provides notice to the Commissioner of the discontinuance. The period of discontinuance may be reduced if the Commissioner determines that a shorter period is appropriate.

2. The sale or other transfer of Medicare supplement business to another issuer shall be considered a discontinuance for the purposes of this Subsection.

3. A change in the rating structure or methodology shall be considered a discontinuance under D.1 unless the issuer complies with the following requirements:

a. The issuer provides an actuarial memorandum, in a form and manner prescribed by the Commissioner, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and existing rates.

b. The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The Commissioner may approve a change to the differential which is in the public interest.

E.1. Except as provided in E.2, the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in §545 of this Regulation.

2. Forms assumed under an assumption reinsurance agreement shall not be combined with the experience of other forms for purposes of the refund or credit calculation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1113 (June 1999), repromulgated LR 25:1494 (August 1999).

§551. Reserved.

§552. Reserved.

§553. Reserved.

§554. Reserved.

§555. Permitted Compensation Arrangements

A. An issuer or other entity may provide commission or other compensation to an agent or other representative for the sale of a Medicare supplement policy or certificate only if the first year commission or other first year compensation is no more than two hundred percent (200%) of the commission or other compensation paid for selling or servicing the policy or certificate in the second year or period.

B. The commission or other compensation provided in subsequent (renewal) years must be the same as that provided in the second year or period and must be provided for no fewer than five (5) renewal years.

C. No issuer or other entity shall provide compensation to its agents or other producers, and no agent or producer shall receive compensation greater than the renewal compensation payable by the replacing issuer on renewal policies or certificates if an existing policy or certificate is replaced.

D. For purposes of this Section, "compensation" includes pecuniary or non-pecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate including, but not limited to, bonuses, gifts, prizes, awards and finders fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1114 (June 1999), repromulgated LR 25:1494 (August 1999).

§556. Reserved.

§557. Reserved.

§558. Reserved.

§559. Reserved.

§560. Required Disclosure Provisions

A. General Rules

1. Medicare supplement policies and certificates shall include a renewal or continuation provision. The language or specifications of the provision shall be consistent with the type of contract issued. The provision shall be appropriately captioned and shall appear on the first page of the policy, and shall include any reservation by the issuer of the right to change premiums and any automatic renewal premium increases based on the policyholder's age.

2. Except for riders or endorsements by which the issuer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a Medicare supplement policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of policy or certificate issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term shall be agreed to, in writing, signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement policies, or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy.

3. Medicare supplement policies or certificates shall not provide for the payment of benefits based on standards described as "usual and customary," "reasonable and customary" or words of similar import.

4. If a Medicare supplement policy or certificate contains any limitations with respect to preexisting conditions, such limitations shall appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations."

5. Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the policyholder or certificate holder shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the insured person is not satisfied for any reason.

6.a. Issuers of accident and sickness policies or certificates which provide hospital or medical expense coverage on an expense incurred or indemnity basis to

persons eligible for Medicare shall provide to those applicants a Guide to Health Insurance for People with Medicare in the form developed jointly by the National Association of Insurance Commissioners and the Health Care Financing Administration and in a type size no smaller than 12 point type. Delivery of the Guide shall be made whether or not the policies or certificates are advertised, solicited, or issued as Medicare supplement policies or certificates, as defined in this regulation. Except in the case of direct response issuers, delivery of the Guide shall be made to the applicant at the time of application, and acknowledgement of receipt of the Guide shall be obtained by the issuer. Direct response issuers shall deliver the Guide to the applicant upon request but not later than at the time the policy is delivered.

b. For the purposes of this Section, "form" means the language, format, type size, type proportional spacing, bold character, and line spacing.

B. Notice Requirements.

1. As soon as practicable, but no later than thirty (30) days prior to the annual effective date of any Medicare benefit changes, an issuer shall notify its policyholders and certificate holders of modifications it has made to Medicare supplement insurance policies or certificates in a format acceptable to the Commissioner. The notice shall:

a. include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement policy or certificate; and

b. inform each policyholder or certificate holder as to when any premium adjustment is to be made due to changes in Medicare.

2. The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

3. The notices shall not contain or be accompanied by any solicitation.

C. Outline of Coverage Requirements for Medicare Supplement Policies.

1. Issuers shall provide an outline of coverage to all applicants at the time application is presented to the prospective applicant and, except for direct response policies, shall obtain an acknowledgement of receipt of the outline from the applicant; and

2. If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany the policy or certificate when it is delivered and contain the following statement, in no less than twelve (12) point type, immediately above the company name:

"NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."

3.a. The outline of coverage provided to applicants pursuant to this Section consists of four parts:

- i. a cover page;
- ii. premium information;
- iii. disclosure pages, and
- iv. charts displaying the features of all benefit plans available by the issuer.

b. The outline of coverage shall be in the language and format prescribed below in no less than twelve (12) point type. All plans A-J shall be shown on the cover page, and each Medicare supplement policy and certificate currently available by an issuer shall be prominently identified. Premium information for plans that are available shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and mode shall be stated for all plans that are available to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated.

4. The following items shall be included in the outline of coverage in the order prescribed below.

[COMPANY NAME]

Outline of Medicare Supplement Coverage Cover Page:

Benefit Plan(s) _____ [insert letter(s) of plan(s) available from the issuer]
 Medicare supplement insurance can be sold in only 10 standard plans plus two high deductible plans. This chart shows the benefits included in each plan. Every company must make available Plan A. Some plans may not be available in your state.

BASIC BENEFITS: Included in All Plans.

Hospitalization: Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.

Medical Expenses: Part B coinsurance (Generally, 20 percent) of Medicare-approved expenses), or, in the case of hospital outpatient department services under a prospective payment system, applicable copayment.

Blood: First three pints of blood each year.

A	B	C	D	E
Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits
		Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible
		Part B Deductible		
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency
			At-Home Recovery	
				Preventive Care

F	F*	G	H	I	J	J*
Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits
Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance
Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible
Part B Deductible						Part B Deductible
Part B Excess (100%)	Part B Excess (80%)			Part B Excess (100%)		Part B Excess (100%)
Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency		Foreign Travel Emergency
	At-Home Recovery			At-Home Recovery		At-Home Recovery
		Basic Drugs (\$1,250 Limit)		Basic Drugs (\$1,250 Limit)		Extended Drugs (3,000 Limit)
						Preventive Care

*Plan F and J also have an option called a high deductible Plan F and a high deductible Plan J. These high deductible plans pay the same or offer the same benefits as Plan F and J after one has paid a calendar year [\$1500] deductible. Benefits from high deductible Plans F and J will not begin until out-of-pocket expenses are [\$1500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but does not include, in Plan J, the plan's separate prescription drug deductible or, in Plans F and J, the plan's separate foreign travel emergency deductible.

PREMIUM INFORMATION

[Boldface Type]

We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this state. [If the premium is based on the increasing age of the insured, include information specifying when premiums will change.]

DISCLOSURES

[Boldface Type]

Use this outline to compare benefits and premiums among policies.

READ YOUR POLICY VERY CAREFULLY

[Boldface Type]

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

RIGHT TO RETURN POLICY

[Boldface Type]

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

POLICY REPLACEMENT

[Boldface Type]

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

NOTICE

[Boldface Type]

This policy may not fully cover all of your medical costs.

[for agents:]

Neither [insert company's name] nor its agents are connected with Medicare.

[for direct response:]

[insert company's name] is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security Office or consult *The Medicare Handbook* for more details.

COMPLETE ANSWERS ARE VERY IMPORTANT

[Boldface Type]

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this Regulation. An issuer may use additional benefit plan designations on these charts pursuant to §520.D of this Regulation.]

[Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the Commissioner.]

PLAN A

MEDICARE (PART A)--HOSPITAL SERVICES--PER BENEFIT PERIOD
 *A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$768	\$0	\$768 (Part A Deductible)
61st thru 90th day	All but \$192/day	\$192/day	\$0
91st day and after:			
--While using 60 lifetime reserve days	All but \$384/day	\$384/day	\$0
--Once lifetime reserve days are used:			
--Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
--Beyond the Additional 365 days	\$0	\$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$96/day	\$0	Up to \$96/day
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN A

MEDICARE (PART B) MEDICAL SERVICES PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES* IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment.			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	\$0	All Costs
BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100(Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A and B

HOME HEALTH CARE MEDICARE APPROVED SERVICES			
Medically necessary skilled care services and medical supplies	100%	\$0	\$0
Durable medical equipment			

First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0

PLAN B

MEDICARE (PART A) HOSPITAL SERVICES PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$768	\$768 (Part A Deductible)	\$0
61st thru 90th day	All but \$192/day	\$192/day	\$0
91st day and after:			
While using 60 lifetime reserve days	All but \$384/day	\$384/day	\$0
Once lifetime reserve days are used:			
Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
Beyond the Additional 365 days	\$0	\$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$96/day	\$0	Up to \$96/day
101st day and after	\$0	\$0	All costs
BLOOD			

First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN B

MEDICARE (PART B) MEDICAL SERVICES PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES-- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment.			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	\$0	All Costs
BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES--BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A and B

HOME HEALTH CARE MEDICARE APPROVED SERVICES			
Medically necessary skilled care services and medical supplies	100%	\$0	\$0
Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0

PLAN C

MEDICARE (PART A) HOSPITAL SERVICES PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$768	\$768 (Part A Deductible)	\$0
61st thru 90th day	All but \$192/day	\$192/day	\$0
91st day and after:			
While using 60 lifetime reserve days	All but \$384/day	\$384/day	\$0
Once lifetime reserve days are used:			
Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
Beyond the Additional 365 days	\$0	\$0	All Costs

SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$96/day	Up to \$96/day	\$0
101st day and after	\$0	\$0	All Costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN C

MEDICARE (PART B) MEDICAL SERVICES PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

MEDICAL EXPENSES-- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
First \$100 of Medicare Approved Amounts*	\$0	\$100 (Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	\$0	All Costs
BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$100 (Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0

CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0
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PARTS A and B

HOME HEALTH CARE MEDICARE APPROVED SERVICES			
Medically necessary skilled care services and medical supplies	100%	\$0	\$0
Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$100 (Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0

OTHER BENEFITS NOT COVERED BY MEDICARE

FOREIGN TRAVEL—NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

PLAN D

MEDICARE (PART A) HOSPITAL SERVICES PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$768	\$768 (Part A Deductible)	\$0
61st thru 90th day	All but \$192/day	\$192/day	\$0
91st day and after;			
While using 60 lifetime reserve days	All but \$384/day	\$384/day	\$0
Once lifetime reserve days are used:			
Additional 365 days	\$0	100% of	\$0

Beyond the Additional 365 days	\$0	Medicare Eligible Expenses \$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements including have been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$96/day	Up to \$96/day	\$0
101st day and after	\$0	\$0	All Costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN D

MEDICARE (PART B) MEDICAL SERVICES PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES— IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment.			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	\$0	All Costs
BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
CLINICAL			

LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0
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PARTS A and B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOME HEALTH CARE MEDICARE APPROVED SERVICES			
Medically necessary skilled care services and medical supplies	100%	\$0	\$0
Durable medical equipment			
First \$100 of Medicare Approved Amounts	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
AT-HOME RECOVERY SERVICES—NOT COVERED BY MEDICARE Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
Benefit for each visit	\$0	Actual Charges to \$40 a visit	Balance
Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	\$0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
Calendar year maximum	\$0	\$1,600	

OTHER BENEFITS NOT COVERED BY MEDICARE

FOREIGN TRAVEL—NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

PLAN E
 MEDICARE (PART A) HOSPITAL SERVICES PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$768	\$768 (Part A Deductible)	\$0
61st thru 90th day	All but \$192/day	\$192/day	\$0
91st day and after:			
While using 60 lifetime reserve days	All but \$384/day	\$384/day	\$0
Once lifetime reserve days are used:			
Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
Beyond the Additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leave in the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th Daily	All but \$96/day	Up to \$96/day	\$0
101st day and after	\$0	\$0	All Costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional Amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN E
 MEDICARE (PART B) MEDICAL SERVICES PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES-- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENTS, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment.			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	\$0	All Costs
BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A and B

HOME HEALTH CARE MEDICARE APPROVED SERVICES			
Medically necessary skilled care services and medical supplies	100%	\$0	\$0
Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0

OTHER BENEFITS NOT COVERED BY MEDICARE

FOREIGN TRAVEL—NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
PREVENTIVE MEDICAL CARE BENEFIT—NOT COVERED BY MEDICARE Some annual physical and preventive tests and services, such as: fecal occult blood test, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare			
First \$120 each calendar year	\$0	\$120	\$0
Additional charges	\$0	\$0	All Costs

*Medicare benefits are subject to change. Please consult the latest *Guide to Health Insurance for People with Medicare*.

PLAN F or HIGH DEDUCTIBLE PLAN F

MEDICARE (PART A) HOSPITAL SERVICES PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

**This high deductible plan pays the same or offers the same benefits as plan F after one has paid a calendar year [\$1500] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are [\$1500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE, ** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE, ** YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$768	\$768 (Part A Deductible)	\$0
61st thru 90th day	All but \$192/day	\$192/day	\$0
91st day and after: While using 60 lifetime reserve days	All but \$384/day	\$384/day	\$0

Once lifetime reserve days are used:			
Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
Beyond the Additional 365 days	\$0	\$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$96/day	Up to \$96/day	\$0
101st day and after	\$0	\$0	All Costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN F

MEDICARE PART (B) MEDICAL SERVICES PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

**This high deductible plan pays the same or offers the same benefits as plan F after one has paid a calendar year [\$1500] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are [\$1500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE, ** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE, ** YOU PAY
MEDICAL EXPENSES-- in or out of the hospital and outpatient hospital treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment.			
First \$100 of Medicare Approved Amounts*	\$0	\$100 (Part B Deductible)	\$0

Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	100%	\$0
BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$100 (Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A and B

HOME HEATH CARE MEDICARE APPROVED SERVICES			
Medically necessary skilled care services and medical supplies	100%	\$0	\$0
Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$100 (Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0

OTHER BENEFITS NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE, ** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE, ** YOU PAY
FOREIGN TRAVEL—NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

PLAN G
MEDICARE (PART A) HOSPITAL SERVICES PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$768	\$768 (Part A Deductible)	\$0
61st thru 90th day	All but \$192/day	\$192/day	\$0
91st day and after:			
While using 60 lifetime reserve days	All but \$384/day	\$384/day	\$0
Once lifetime reserve days are used:			
Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
Beyond the Additional 365 days	\$0	\$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All Approved amounts	\$0	\$0
21st thru 100th day	All but \$96/day	Up to \$96/day	\$0
101st day and after	\$0	\$0	All Costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN G
MEDICARE (PART B) MEDICAL SERVICES PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES-- in or out of the hospital and outpatient hospital treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment.			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	80%	20%
BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A and B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOME HEALTH CARE MEDICARE APPROVED SERVICES			
Medically necessary skilled care services and medical supplies	100%	\$0	\$0
Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
AT-HOME RECOVERY SERVICES—NOT COVERED BY			

MEDICARE			
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
Benefit for each visit	\$0	Actual Charges to \$40 a visit	Balance
Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	\$0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
Calendar year maximum	\$0	\$1,600	

OTHER BENEFITS NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL—NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

PLAN H

MEDICARE (PART A) HOSPITAL SERVICES PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$768	\$768 (Part A Deductible)	\$0
61st thru 90th day	All but \$192/day	\$192/day	\$0
91st day and after:			
While using 60 lifetime reserve days	All but \$384 day	\$384/day	\$0

Once lifetime reserve days are used:			
Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
Beyond the Additional 365 days	\$0	\$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$96/day	Up to \$96/day	\$0
101st day and after	\$0	\$0	All Costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN H

MEDICARE (PART B) MEDICAL SERVICES PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES-- in or out of the hospital and outpatient hospital treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	\$0	All Costs
BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of	\$0	\$0	\$100 (Part B

Medicare Approved Amounts*			Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A and B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOME HEALTH CARE MEDICARE APPROVED SERVICES			
<input type="checkbox"/> Medically necessary skilled care services and medical supplies	100%	\$0	\$0
Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0

OTHER BENEFITS NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL—NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
BASIC OUTPATIENT PRESCRIPTION DRUGS-NOT COVERED BY MEDICARE			
First \$250 each calendar year	\$0	\$0	\$250
Next \$2,500 each calendar year	\$0	50% \$1,250 calendar	50%

		year maximum benefit	
Over \$2,500 each calendar year	\$0	\$0	All Costs

PLAN I

MEDICARE (PART A) HOSPITAL SERVICES PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$768	\$768 (Part A Deductible)	\$0
61st thru 90th day	All but \$192/day	\$192/day	\$0
91st day and after:			
While using 60 lifetime reserve days	All but \$384/day	\$384/day	\$0
Once lifetime reserve days are used:			
Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
Beyond the Additional 365 days	\$0	\$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet the Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$96/day	Up to \$96/day	\$0
101st day and after	\$0	\$0	All Costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN I

MEDICARE (PART B) MEDICAL SERVICES PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES— in or out of the hospital and outpatient hospital treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment.			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	100%	\$0
BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	%0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A and B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOME HEALTH CARE MEDICARE APPROVED SERVICES			
Medically necessary skilled care services and medical supplies	100%	\$0	\$0
Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved	80%	20%	\$0

Amounts			
AT-HOME RECOVERY SERVICES—NOT COVERED BY MEDICARE Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
Benefit for each visit	\$0	Actual Charges to \$40 a visit	Balance
Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	\$0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
Calendar year maximum	\$0	\$1,600	

OTHER BENEFITS NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL—NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
BASIC OUTPATIENT PRESCRIPTION DRUGS—NOT COVERED BY MEDICARE			
First \$250 each calendar year	\$0	\$0	\$250
Next \$2,500 each calendar year	\$0	50% \$1,250 calendar year maximum benefit	50%

Over \$2,500 each calendar year	\$0	\$0	All Costs
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PLAN J or HIGH DEDUCTIBLE PLAN J
MEDICARE (PART A) HOSPITAL SERVICES PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

**This high deductible plan pays the same or offers the same benefits as Plan J after one has paid a calendar year [\$1500] deductible. Benefits from high deductible Plan J will not begin until out-of-pocket expenses are [\$1500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate prescription drug deductible or the plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE, ** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE, ** YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$768	\$768 (Part A Deductible)	\$0
61st thru 90th day	All but \$192/day	\$192/day	\$0
91st day and after:			
While using 60 lifetime reserve days	All but \$384/day	\$384/day	\$0
Once lifetime reserve days are used:			
Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
Beyond the Additional 365 days	\$0	\$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$96/day	Up to \$96/day	\$0
101st day and after	\$0	\$0	All Costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0

HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance
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PLAN J or HIGH DEDUCTIBLE PLAN J
MEDICARE (PART B) MEDICAL SERVICES PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

**This high deductible plan pays the same or offers the same benefits as Plan J after one has paid a calendar year [\$1500] deductible. Benefits from high deductible Plan J will not begin until out-of-pocket expenses are [\$1500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate prescription drug deductible or the plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES-- in or out of the hospital and outpatient hospital treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment.			
First \$100 of Medicare Approved Amounts*	\$0	\$100 (Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	100%	\$0
BLOOD			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$100 (Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A and B

HOME HEALTH CARE MEDICARE APPROVED SERVICES			
Medically necessary skilled care services	100%	\$0	\$0

and medical supplies and medical supplies Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$100 (Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE,** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE,** YOU PAY
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HOME HEALTH CARE (contd.)
AT-HOME RECOVERY SERVICES—NOT COVERED BY MEDICARE
Home care certified by your doctor, for personal care beginning during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan

Benefit for each visit	\$0	Actual Charges to \$40 a visit	Balance
Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	\$0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
Calendar year maximum	\$0	\$1,600	

OTHER BENEFITS NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE,** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE,** YOU PAY
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FOREIGN TRAVEL—NOT COVERED BY MEDICARE
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA

First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

EXTENDED OUTPATIENT			
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PRESCRIPTION DRUGS—NOT COVERED BY MEDICARE			
First \$250 each calendar year	\$0	\$0	\$250
Next \$6,000 each calendar year	\$0	50% \$3,000 calendar year maximum benefit	50%
Over \$6,000 each calendar year	\$0	\$0	All Costs
PREVENTIVE MEDICAL CARE BENEFIT—NOT COVERED BY MEDICARE Some annual physical and preventive tests and services such as: fecal occult blood test, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare			
First \$120 each calendar year	\$0	\$120	\$0
Additional charges	\$0	\$0	All Costs

***Medicare benefits are subject to change. Please consult the latest *guide to health insurance for people with Medicare*.

D. Notice Regarding Policies or Certificates Which Are Not Medicare Supplement Policies.

1. Any accident and sickness insurance policy or certificate, other than a Medicare supplement policy; a policy issued pursuant to a contract under Section 1876 of the Federal Social Security Act (42 U.S.C. §1395 et seq.), disability income policy; or other policy identified in §502.B of this regulation, issued for delivery in this state to persons eligible for Medicare shall notify insureds under the policy that the policy is not a Medicare supplement policy or certificate. The notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, to the first page of the policy, or certificate delivered to insureds. The notice shall be in no less than twelve (12) point type and shall contain the following language: *"THIS [POLICY OR CERTIFICATE] IS NOT A MEDICARE SUPPLEMENT [POLICY OR CONTRACT]. If you are eligible for Medicare, review the Guide to Health Insurance for People with Medicare available from the company."*

2. Applications provided to persons eligible for Medicare for the health insurance policies or certificates described in Subsection D.1 shall disclose, using the applicable statement in Appendix C, the extent to which the policy duplicates Medicare. The disclosure statement shall be provided as a part of, or together with, the application for the policy or certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1114 (June 1999), repromulgated LR 25:1495 (August 1999).

§561. Reserved.

§562. Reserved.

§563. Reserved.

§564. Reserved.

§565. Requirements for Application Forms and Replacement Coverage

A. Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement or other health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing such questions and statements may be used.

B. An application for a Medicare supplement policy shall not be combined with an application for any other type of insurance coverage. The application may not make reference to or include questions regarding other types of insurance coverage except for those questions specifically required under this section.

1. [Statements]

a. You do not need more than one Medicare supplement policy.

b. If you purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

c. You may be eligible for benefits under Medicaid and may not need a Medicare supplement policy.

d. The benefits and premiums under your Medicare supplement policy can be suspended, if requested, during your entitlement to benefits under Medicaid for 24 months. You must request this suspension within 90 days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your policy will be reinstated if requested within 90 days of losing Medicaid eligibility.

e. Counseling services may be available in your state to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the state Medicaid program, including benefits as a Qualified Medicare Beneficiary (QMB) and a Specified Low-Income Medicare Beneficiary (SLMB).

2. [Questions]

a. To the best of your knowledge,

i. Do you have another Medicare supplement policy or certificate in force?

(a). If so, with which company?

(b). If so, do you intend to replace your current Medicare supplement policy with this policy [certificate]?

ii. Do you have any other health insurance coverage that provides benefits similar to this Medicare supplement policy?

(a). If so, with which company?

(b). What kind of policy?

iii. Are you covered for medical assistance through the state Medicaid program:

(a). As a Specified Low-Income Medicare Beneficiary (SLMB)?

(b) As a Qualified Medicare Beneficiary (QMB)?

(c). For other Medicaid medical benefits?

C. Agents shall list any other health insurance policies they have sold to the applicant.

1. List policies sold which are still in force.
2. List policies sold in the past five (5) years which are no longer in force.

D. In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, shall be returned to the applicant by the insurer upon delivery of the policy.

E. Upon determining that a sale will involve replacement of Medicare supplement coverage, any issuer, other than a direct response issuer, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One copy of the notice, signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant, at the time of the issuance of the policy, the notice regarding replacement of Medicare supplement coverage.

F. The notice required by Subsection D above for an issuer shall be provided in substantially the following form in no less than twelve (12) point type:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to terminate existing Medicare supplement insurance and replace it with a policy to be issued by [Company Name] Insurance Company. Your new policy will provide thirty (30) days within which you may decide without cost whether you desire to keep the policy.

You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. If, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision, you should terminate your present Medicare supplement coverage. You should evaluate the need for other accident and sickness coverage you have that may duplicate this policy.

STATEMENT TO APPLICANT BY ISSUER, AGENT [BROKER OR OTHER REPRESENTATIVE]:

I have reviewed your current medical or health insurance coverage. To the best of my knowledge, this Medicare supplement policy will not duplicate your existing Medicare supplement coverage because you intend to terminate your existing Medicare supplement coverage. The replacement policy is being purchased for the following reason (check one):

_____ Additional benefits.

_____ No change in benefit, but lower premiums.

_____ Fewer benefits and lower premiums.

_____ Other. (please specify)

1. Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.
2. State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) to the extent such time was spent (depleted) under the original policy.
3. If, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Do not cancel your present policy until you have received your new policy and are sure that you want to keep it.

(Signature of Agent, Broker or Other Representative)*

[Typed Name and Address of Issuer, Agent or Broker]

(Applicant's Signature)

(Date)

*Signature not required for direct response sales.

G. Paragraphs 1 and 2 of the replacement notice (applicable to preexisting conditions) may be deleted by an issuer if the replacement does not involve application of a new preexisting condition limitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1130 (June 1999), repromulgated LR 25:1510 (August 1999).

§566. Reserved.

§567. Reserved.

§568. Reserved.

§569. Reserved.

§570. Filing Requirements for Advertising

A. An issuer shall provide a copy of any Medicare supplement advertisement intended for use in this state whether through written, radio or television medium to the Commissioner of Insurance of this state for review and approval by the Commissioner to the extent permitted under the Insurance Code, particularly under R. S. 22:1215.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1131 (June 1999), repromulgated LR 25:1512 (August 1999).

§571. Reserved.

§572. Reserved.

§573. Reserved.

§574. Reserved.

§575. Standards for Marketing

A. An issuer, directly or through its producers, shall:

1. Establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate;

2. Establish marketing procedures to assure excessive insurance is not sold or issued;

3. Display prominently by type, stamp or other appropriate means, on the first page of the policy the following: *"Notice to buyer: This policy may not cover all of your medical expenses."*

4. Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has accident and sickness insurance and the types and amounts of any such insurance;

5. Establish auditable procedures for verifying compliance with this Subsection A.

B. In addition to the practices prohibited in Louisiana Revised Statutes 22:1211 et seq. the following acts and practices are prohibited:

1. Twisting. Making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.

2. High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

3. Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

C. The terms Medicare Supplement, Medigap, Medicare Wrap-Around and words of similar import shall not be used unless the policy is issued in compliance with this regulation.

D. No insurer providing Medicare supplement insurance in this state shall allow its agent to accept premiums except by check, money order, or bank draft made payable to the insurer. If payment in cash is made, the agent must leave the insurer's official receipt with the insured or the person paying the premium on behalf of the insured. This receipt shall bind the insurer for the monies received by the agent. Under this section, the agent is prohibited from accepting checks, money orders and/or bank drafts payable to the agent or his agency. The agent is not to leave any receipt other than the insurer's for premium paid in cash.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1131 (June 1999), repromulgated LR 25:1512 (August 1999).

§576. Reserved.

§577. Reserved.

§578. Reserved.

§579. Reserved.

§580. Appropriateness of Recommended Purchase and Excessive Insurance

A. In recommending the purchase or replacement of any Medicare supplement policy or certificate an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

B. Any sale of Medicare supplement coverage that will provide an individual more than one Medicare supplement policy or certificate is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1132 (June 1999), repromulgated LR 25:1512 (August 1999).

§581. Reserved.

§582. Reserved.

§583. Reserved.

§584. Reserved.

§585. Reporting of Multiple Policies

A. On or before March 1 of each year, an issuer shall report the following information for every individual resident of this state for which the issuer has in force more than one Medicare supplement policy or certificate:

1. policy and certificate number; and
2. date of issuance.

B. The items set forth above must be grouped by individual policyholder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1132 (June 1999), repromulgated LR 25:1512 (August 1999).

§586. Reserved.

§587. Reserved.

§588. Reserved.

§589. Reserved.

§590. Prohibition Against Preexisting Conditions, Waiting Periods, Elimination Periods and Probationary Periods in Replacement Policies or Certificates

A. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing issuer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods and probationary periods in the new Medicare supplement policy or certificate to the extent such time was spent under the original policy.

B. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate which has been in effect for at least six (6) months, the replacing policy shall not provide any time period applicable to preexisting conditions, waiting periods, elimination periods and probationary periods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1132 (June 1999), repromulgated LR 25:1512 (August 1999).

§591. Reserved.

§592. Reserved.

§593. Reserved.

§594. Reserved.

§595. Separability

A. If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1132 (June 1999), repromulgated LR 25:1513 (August 1999).

§596. Appendix A

Years)

3 Total Experience (Net Current Year + Past Years' Experience) _____

4 Refunds last year (Excluding Interest)_____

5 Previous Since Inception (Excluding Interest)_____

6 Refunds Since Inception (Excluding Interest)_____

7 Benchmark Ratio Since Inception (SEE WORKSHEET FOR RATIO I)_____

8 Experienced Ratio Since Inception

Total Actual Incurred Claims (line (line 3, col b) = Ratio 2
Tot. Earned Prem.(line 3, col a) -
Refunds Since Inception (line 6)

9 Life Years Exposed Since Inception _____

If the Experience Ratio is less than the Benchmark Ratio, and there are more than 500 life years exposure, then proceed to calculation of refund.

10 Tolerance Permitted (obtained from credibility table)_____

MEDICARE SUPPLEMENT REFUND CALCULATION FORM
FOR CALENDAR YEAR _____

Type¹ _____ SMSBP² _____

For the State of _____

Company Name _____

NAIC Group Code _____ NAIC Company Code _____

Address _____

Person Completing This Exhibit _____

Title _____ Telephone Number _____

	(a)	(b)
	Earned Premium ³	Incurred Claims ⁴
1 Current Year's Experience		
a. Total (all policy years)		
b. Current year's issues (5)		
c. Net (for reporting purposes = 1a - 1b)		
2 Past Years' Experience (All Policy)		

Medicare Supplement Credibility Table	
Life Years Exposed Since Inception	Tolerance
10,000 +	0.0%
5,000 - 9,999	5.0%
2,500 - 4,999	7.5%
1,000 - 2,499	10.0%
500 - 999	15.0%
If less than 500, no credibility.	

- 1 Individual, Group, Individual Medicare Select, or Group Medicare Select Only.
- 2 "SMSBP" = Standardized Medicare Supplement Benefit Plan - Use "P" for pre-standardized plans.
- 3 Includes Modal Loadings and Fees Charged
- 4 Excludes Active Life Reserves
- 5 This is to be used as "Issue Year Earned Premium" for Year 1 of next year's "Worksheet for Calculation of Benchmark Ratios"

MEDICARE SUPPLEMENT REFUND CALCULATION FORM FOR CALENDAR YEAR _____
Type ¹ _____ SMSBP ² _____
For the State of _____
Company Name _____
NAIC Group Code _____ NAIC Company Code _____
Address _____
Person Completing This Exhibit _____
Title _____ Telephone Number _____
11. Adjustment to Incurred Claims for Credibility Ratio 3 = Ratio 2 + Tolerance If Ratio 3 is more than benchmark ratio (ratio 1), a refund or credit to premium is not required. If Ratio 3 is less than the benchmark ratio, then proceed.
12. Adjusted Incurred Claims = [Tot. Earned Premiums (line 3, col a)-Refunds Since Inception (line 6)] X Ratio 3 (line 11)
13. Refund = Total Earned Premiums (line 3, col a) Refunds Since Inception (line 6) -[Adjusted Incurred Claims (line 12)/ Benchmark Ratio (Ratio 1)]
If the amount on line 13 is less than .005 times the annualized premium in force as of December 31 of the reporting year, then no refund is made. Otherwise, the amount on line 13 is to be refunded or credited, and a description of the refund or credit against premiums to be used must be attached to this form. I certify that the above information and calculations are true and accurate to the best of my knowledge and belief.
_____ Signature
_____ Name - please type
_____ Title
_____ Date

REPORTING FORM FOR THE CALCULATION OF BENCHMARK RATIO SINCE INCEPTION FOR GROUP POLICIES FOR CALENDAR YEAR _____
Type ¹ _____ SMSBP ² _____
For the State of _____
Company Name _____
NAIC Group Code _____ NAIC Company Code _____
Address _____
Person Completing This Exhibit _____
Title _____ Telephone Number _____

(a) ³	(b) ⁴	(c)	(d)	(e)
Year	Earned Premium	Factor	(b)x(c)	Cumulative Loss Ratio
1		2.770		0.507
2		4.175		0.567
3		4.175		0.567
4		4.175		0.567
5		4.175		0.567
6		4.175		0.567
7		4.175		0.567
8		4.175		0.567
9		4.175		0.567
10		4.175		0.567
11		4.175		0.567
12		4.175		0.567
13		4.175		0.567
14		4.175		0.567
15		4.175		0.567
Total:			(k):	

(f)	(g)	(h)	(i)	(j)	(o) ⁵
(d)x(e)	Factor	(b)x(g)	Cumulative Loss Ratio	(h)x(i)	Policy Year Loss Ratio
	0.000		0.000		0.46
	0.000		0.000		0.63
	1.194		0.759		0.75
	2.245		0.771		0.77
	3.170		0.782		0.80
	3.998		0.792		0.82
	4.754		0.802		0.84
	5.445		0.811		0.87
	6.075		0.818		0.88
	6.650		0.824		0.88
	7.176		0.828		0.88
	7.655		0.831		0.88
	8.093		0.834		0.89
	8.493		0.837		0.89
	8.684		0.838		0.89
(l):		(m):		(n):	

Benchmark Ratio Since Inception: $(1 + n)/(k + m)$: _____

¹Individual, Group, Individual Medicare Select, or Group Medicare Select Only.

²"SMSBP" = Standardized Medicare Supplement Benefit Plan - Use "P" for pre-standardized plans

³Year 1 is the current calendar year - 1. Year 2 is the current calendar year - 2 (etc.) (Example: If the current year is 1991, then: Year 1 is 1990; Year 2 is 1989, etc.)

⁴For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.

⁵These loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only

**REPORTING FORM FOR THE CALCULATION OF
BENCHMARK RATIO SINCE INCEPTION
FOR INDIVIDUAL POLICIES
FOR CALENDAR YEAR _____**

Type¹ _____ SMSBP² _____

For the State of _____

Company Name _____

NAIC Group Code _____ NAIC Company Code _____

Address _____

Person Completing This Exhibit _____

Title _____ Telephone Number _____

(a) ³	(b) ⁴	(c)	(d)	(e)	(f)
Year	Earned Premium	Factor	(b)x(c)	Cumulative Loss Ratio	(d)x(e)
1		2.770		0.442	
2		4.175		0.493	
3		4.175		0.493	
4		4.175		0.493	
5		4.175		0.493	
6		4.175		0.493	
7		4.175		0.493	
8		4.175		0.493	
9		4.175		0.493	
10		4.175		0.493	
11		4.175		0.493	
12		4.175		0.493	
13		4.175		0.493	
14		4.175		0.493	
15		4.175		0.493	
Total:			(k):		(l):

§597. Appendix B

(g)	(h)	(i)	(j)	(o) ⁵
Factor	(b)x(g)	Cumulative Loss Ratio	(h)x(i)	Policy Year Loss Ratio
0.000		0.000		0.40
0.000		0.000		0.55
1.194		0.659		0.65
2.245		0.669		0.67
3.170		0.678		0.69
3.998		0.686		0.71
4.754		0.695		0.73
5.445		0.702		0.75
6.075		0.708		0.76
6.650		0.713		0.76
7.176		0.717		0.76
7.655		0.720		0.77
8.093		0.723		0.77
8.493		0.725		0.77
8.684		0.725		0.77
	(m):		(n):	

Benchmark Ratio Since Inception: $(1 + n)/(k + m)$: _____
¹Individual, Group, Individual Medicare Select, or Group Medicare Select Only.

²"SMSBP" = Standardized Medicare Supplement Benefit Plan - Use "P" for pre-standardized plans

³Year 1 is the current calendar year - 1. Year 2 is the current calendar year - 2 (etc.) (Example: If the current year is 1991, then: Year 1 is 1990; Year 2 is 1989, etc.)

⁴For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.

⁵These loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1132 (June 1999), repromulgated LR 25:1513 (August 1999).

FORM FOR REPORTING MEDICARE SUPPLEMENT POLICIES	
Company Name:	
Address:	
Phone Number:	
Due: March 1, annually	
The purpose of this form is to report the following information on each resident of this state who has in force more than one Medicare supplement policy or certificate. The information is to be grouped by individual policyholder.	
Policy and Certificate #	Date of Issuance
_____ Signature	
_____ Name and Title (please type)	
_____ Date	

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1136 (June 1999), repromulgated LR 25:1516 (August 1999).

§598. Appendix C

DISCLOSURE STATEMENTS

Instructions for Use of the Disclosure Statements for

Health Insurance Policies Sold to Medicare Beneficiaries

that Duplicate Medicare

1. Section 1882(d) of the federal Social Security Act [42 U.S.C. 1395ss] prohibits the sale of a health insurance policy (the term policy includes certificates) to Medicare beneficiaries that duplicates Medicare benefits unless it will pay benefits without regard to a beneficiary's other health coverage and it includes the prescribed disclosure statement on or together with the application for the policy.

2. All types of health insurance policies that duplicate Medicare shall include one of the attached disclosure statements, according to the particular policy type involved, on the application or together with the application. The disclosure statement may not vary from the attached statements in terms of language or format (type size, type proportional spacing, bold character, line spacing, and usage of boxes around text).
3. State law and federal law prohibits insurers from selling a Medicare supplement policy to a person that already has a Medicare supplement policy except as a replacement policy.
4. Property/casualty and life insurance policies are not considered health insurance.
5. Disability income policies are not considered to provide benefits that duplicate Medicare.
6. Long-term care insurance policies that coordinate with Medicare and other health insurance are not considered to provide benefits that duplicate Medicare.
7. The federal law does not pre-empt state laws that are more stringent than the federal requirements.
8. The federal law does not pre-empt existing state form filing requirements.
9. Section 1882 of the federal Social Security Act was amended in Subsection (d)(3)(A) to allow for alternative disclosure statements. The disclosure statements already in Appendix C remain. Carriers may use either disclosure statement with the requisite insurance product. However, carriers should use either the original disclosure statements or the alternative disclosure statements and not use both simultaneously.

[Original disclosure statement for policies that provide benefits for expenses incurred for an accidental injury only.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

hospital or medical expenses up to the maximum stated in the policy

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

hospitalization

physician services

other approved items and services

Before You Buy This Insurance

Check the coverage in **all** health insurance policies you already have.

For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original disclosure statement for policies that provide benefits for specified limited services.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

any of the services covered by the policy are also covered by Medicare

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

hospitalization

physician services

other approved items and services

Before You Buy This Insurance

Check the coverage in **all** health insurance policies you already have.

For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original disclosure statement for policies that reimburse expenses incurred for specified diseases or other specified impairments. This includes expense-incurred cancer, specified disease and other types of health insurance policies that limit reimbursement to named medical conditions.]

This is not Medicare Supplement Insurance

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

hospital or medical expenses up to the maximum stated in the policy

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice
- other approved items and services

Before You Buy This Insurance

Check the coverage in **all** health insurance policies you already have.

For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original disclosure statement for policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

Before You Buy This Insurance

Check the coverage in **all** health insurance policies you already have.

For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original disclosure statement for indemnity policies and other policies that pay a fixed dollar amount per day, excluding long-term care policies.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

any expenses or services covered by the policy are also covered by Medicare

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization

physician services
hospice
other approved items and services

Before You Buy This Insurance

Check the coverage in **all** health insurance policies you already have.

For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original disclosure statement for policies that provide benefits upon both an expense-incurred and fixed indemnity basis]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

any expenses or services covered by the policy are also covered by Medicare; or

it pays the fixed dollar amount stated in the policy and Medicare covers the same event

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

hospitalization
physician services
hospice
other approved items and services

Before You Buy This Insurance

Check the coverage in **all** health insurance policies you already have.

For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program

[Original disclosure statement for other health insurance policies not specifically identified in the preceding statements.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance provides limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

the benefits stated in the policy and coverage for the same event is provided by Medicare

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

hospitalization
physician services
hospice
other approved items & services

Before You Buy This Insurance

Check the coverage in **all** health insurance policies you already have.

For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for policies that provide benefits for expenses incurred for an accidental injury only.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

Check the coverage in **all** health insurance policies you already have.

For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for policies that provide benefits for specified limited services.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits under this policy.

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

Check the coverage in **all** health insurance policies you already have.

For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for policies that reimburse expenses incurred for specified diseases or other specified impairments. This includes expense-incurred cancer, specified disease and other types of health insurance policies that limit reimbursement to named medical conditions.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy. Medicare generally pays for most or all of these expenses.

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

Check the coverage in **all** health insurance policies you already have.

For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

Check the coverage in **all** health insurance policies you already have.

For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for indemnity policies and other policies that pay a fixed dollar amount per day, excluding long-term care policies.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

Check the coverage in **all** health insurance policies you already have.

For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for policies that provide benefits upon both an expense-incurred and fixed indemnity basis]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

Check the coverage in **all** health insurance policies you already have.

For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative disclosure statement for other health insurance policies not specifically identified in the preceding statements.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance provides limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice
- other approved items & services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

Check the coverage in **all** health insurance policies you already have.

For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1136 (June 1999), repromulgated LR 25:1516 (August 1999).

§599. Effective Date

This regulation shall be effective on June 18, 1999.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1142 (June 1999), repromulgated LR 25:1522 (August 1999).

James H. "Jim" Brown
Commissioner

9908#011

RULE

**Department of Natural Resources
Office of Conservation**

Statewide Order No. 29 Casing Program
(LAC 43:XIX.109)

Editor's Note: The following rule, published on page 1260 of the July 20, 1999 issue of the *Louisiana Register* was submitted in error for publication in July. It is being republished as a rule in this issue effective August 20, 1999, and the historical note is being corrected.

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 29-B.

**Title 43
NATURAL RESOURCES**

**Part XIX. Office of Conservation: General Operations
Subpart 1. Statewide Order No. 29-B**

Chapter 1. General Provisions

§109. Casing Program

A. Conductor Pipe. Conductor pipe is that pipe ordinarily used for the purpose of supporting unconsolidated surface deposits. The use and removal of conductor pipe during the drilling of any oil and gas well shall be at the option of the operator.

* * *

E. Tubing and Completion

1. A valve, or its equivalent, tested to a pressure of not less than the calculated bottomhole pressure of the well, shall be installed below any and all tubing outlet connections.

2. When a well develops a casing pressure, upon completion, equivalent to more than three-quarters of the internal pressure that will develop the minimum yield point of the casing, such well shall be required by the district manager to be killed, and a tubing packer to be set so as to keep such excessive pressure of the casing.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Conservation (August 1943), amended (February 1951), (August 1958), amended by the Department of Natural Resources, Office of Conservation, LR 25:1523 (August 1999).

Philip N. Asproditis
Commissioner

9908#007

RULE

**Department of Revenue
Office of the Secretary**

Drug Free Workplace and Drug Testing
(LAC 61:I.101)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Executive Order MJF 98-38 and R.S. 49:1015 et seq., the Department of Revenue, Office of the Secretary, has adopted LAC 61:I.101 to provide for implementation of a drug-testing program for new and existing employees.

Title 61

REVENUE AND TAXATION

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

Chapter 1. Office of the Secretary

§101. Drug Free Workplace and Drug Testing

A. Introduction and Purpose

1. The employees of the Department of Revenue are among the state's most valuable resources, and the physical and mental well-being of our employees is necessary for them to properly carry out their responsibilities. Substance abuse causes serious adverse consequences to users, affecting their productivity, health and safety, dependents, and co-workers, as well as the general public.

2. The State of Louisiana and the Department of Revenue have a long-standing commitment to working toward a drug-free workplace. In order to curb the use of illegal drugs by employees of the State of Louisiana, the Louisiana Legislature enacted laws that provide for the creation and implementation of drug testing programs for state employees. Further, the Governor of the State of Louisiana issued Executive Order 98-38 providing for the promulgation by executive agencies of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees, pursuant to R.S. 49:1001 et seq.

B. Applicability

1. This regulation shall apply to all Department of Revenue employees including appointees and all other persons having an employment relationship with this agency.

C. Definitions

Controlled Substances—a drug, chemical substance or immediate precursor in Schedules I through V of R.S. 40:964 or Section 202 of the Controlled Substances Act (21 U.S.C. 812).

Designer (Synthetic) Drugs—those chemical substances that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.

Employee—unclassified, classified, and student employees, student interns, and any other person having an employment relationship with this agency, regardless of the appointment type (e.g. full time, part time, temporary, restricted, detailed, job appointment, etc.).

Illegal Drug—any drug that is not legally obtainable or that has not been legally obtained, to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed.

Reasonable Suspicion—belief based upon reliable, objective and articulable facts derived from direct observation of specific physical, behavioral, odorous presence, or performance indicators and being of sufficient import and quantity to lead a prudent person to suspect that an employee is in violation of this regulation.

Safety-Sensitive or Security-Sensitive Position—a position determined by the Appointing Authority to contain duties of such nature that the compelling state interest to keep the incumbent drug-free outweighs the employee's privacy interests. Positions considered as safety-sensitive or security-sensitive are listed in §101.J. These positions were determined with consideration of statutory law, jurisprudence, and the practices of this agency. Examples of safety-sensitive and security-sensitive positions are as follows:

a. Positions with duties that are required or are authorized to carry a firearm.

b. Positions with duties that require operation or maintenance of any heavy equipment or machinery, or the supervision of such an employee.

c. Positions with duties that require the operation or maintenance of a public vehicle, or the supervision of such an employee.

Under the Influence—for the purposes of this regulation, a drug, chemical substance, or the combination of a drug or chemical substance that affects an employee in any

detectable manner. The symptoms or influence are not confined to that consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech, or difficulty in maintaining balance. A determination of influence can be established by a professional opinion or a scientifically valid test.

Workplace—any location on agency property including all property, offices, and facilities, including all vehicles and equipment, whether owned, leased, or otherwise used by the agency or by an employee on behalf of the agency in the conduct of its business in addition to any location from which an individual conducts agency business while such business is being conducted.

D. Drug-Free Workplace Policy

1. It shall be the policy of the Department of Revenue to maintain a drug-free workplace and a workforce free of substance abuse. Employees are prohibited from reporting to work or performing work with the presence in their bodies of illegal drugs, controlled substances, or designer (synthetic) drugs at or above the initial testing levels and confirmatory testing levels as established in the contract between the State of Louisiana and the official provider of drug testing services. Employees are further prohibited from the illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs, at the work site and while on official state business, on duty or on call for duty.

2. To assure maintenance of a drug-free workplace, it shall be the policy of the Department of Revenue to implement a program of drug testing, in accordance with Executive Order No. MJF 98-38, R.S. 49:1001 et seq., and all other applicable federal and state laws, as set forth below.

E. Conditions Requiring Drug Tests. Drug testing shall be required under the following conditions:

1. Reasonable Suspicion. Any employee shall be required to submit to a drug test if there is reasonable suspicion, as defined in §101.C.*Reasonable Suspicion*, that the employee is using drugs.

2. Post Accident. Each employee involved in an accident that occurs during the course and scope of employment shall be required to submit to a drug test if the accident:

- a. involves circumstances leading to a reasonable suspicion of the employee's drug use, or
- b. results in a fatality.

3. Rehabilitation Monitoring. Any employee who is participating in a substance abuse after-treatment program or who has a rehabilitation agreement with the agency following an incident involving substance abuse shall be required to submit to random drug testing.

4. Pre-employment. Each prospective employee shall be required to submit to drug screening at the time and place designated by the Director of the Human Resources Division following a job offer contingent upon a negative drug-testing result. Pursuant to R.S. 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening shall be eliminated from consideration for employment.

5. Safety-sensitive and Security-sensitive positions.

a. Appointments and Promotions. Each employee who is offered a safety-sensitive or security-sensitive position as defined in §101.J shall be required to pass a drug

test before being placed in such position, whether through appointment or promotion. All such testing shall, if applicable, occur during the selected employee's work schedule.

b. Random testing. Every employee in a safety-sensitive or security-sensitive position shall be required to submit to drug testing as required by the Appointing Authority, who shall periodically call for a sample of such employees, selected at random by a computer-generated random selection process, and require them to report for testing. All such testing shall, if applicable, occur during the selected employee's work schedule.

F. Drug-Testing Procedure

1. Drug testing pursuant to this regulation shall be conducted for the presence of cannabinoids (marijuana metabolites), cocaine metabolites, opiate metabolites, phencyclidine, and amphetamines in accordance with the provisions of R.S. 49:1001 et seq. The Department of Revenue reserves the right to test its employees for the presence of any other illegal drug or controlled substance when there is reasonable suspicion to do so.

2. The Human Resource Director and the Deputy Undersecretary shall be involved in any determination that one of the above-named conditions requiring drug testing exists. All recommendations for drug testing must be approved by the Secretary of Revenue. Upon such final determination by the responsible officials, the Director of the Human Resources Division shall notify the supervisor of the employee to be tested, who shall immediately notify the employee where and when to report for the testing.

3. Testing services shall be performed by a provider chosen by the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws. At a minimum, the testing service shall assure the following:

a. All specimen collections will be performed in accordance with applicable federal and state regulations and guidelines to ensure the integrity of the specimen and the privacy of the donor. The Director of Human Resources shall review and concur in advance with any decision by a collection site person to obtain a specimen under direct supervision. All direct observation shall be conducted by a person of the same-sex at the collection site.

b. Chain of custody forms must be provided to ensure the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition.

c. Testing shall be performed by a Substance Abuse Mental Services Health Administration (SAMSHA) certified laboratory.

d. The laboratory shall use a cut-off of 50 ng/ml for a positive finding in testing for Cannabinoids.

e. All positives reported by the laboratory must be confirmed by gas chromatography/mass spectrometry.

4. All positive results of drug-testing shall be reported by the laboratory to a qualified medical review officer.

G. Confidentiality

1. All information, interviews, reports, statements, memoranda, or test results received through this drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary

proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

H. Responsibilities

1. The Secretary of Revenue is responsible for the overall compliance with this regulation and shall submit to the Office of the Governor, through the Commissioner of Administration, a report on this regulation and drug testing program, describing progress, the number of employees affected, the categories of testing being conducted, the associated costs for testing, and the effectiveness of the program by November 1 of each year.

2. The Director of the Human Resources Division is responsible for administering the drug testing program; recommending to the Secretary when drug testing is appropriate; receiving, acting on, and holding confidential all information received from the testing services provider and from the medical review officer; collecting appropriate information necessary to agency defense in the event of legal challenge; and providing the Secretary with the data necessary to submit a detailed report to the Office of the Governor as described above.

3. All supervisory personnel are responsible for reporting to the Director of Human Resources any employee they suspect may be under the influence of any illegal drug or chemical substance. Supervisory personnel are also responsible for assuring that each employee under their supervision understands or is given the opportunity to understand and have questions answered about this regulation's contents.

I. Violation of the Regulation

1. Violation of this regulation, including refusal to submit to drug testing when properly ordered to do so, will result in actions up to and including termination of employment.

2. Each violation and alleged violation of this regulation will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, and the general public.

J. Safety-Sensitive or Security-Sensitive Positions to be Randomly Drug Tested.

1. Secretary
2. Deputy Secretary
3. Undersecretary
4. Assistant Secretary
5. Alcohol Beverage Control Investigator Supervisor
6. Alcohol Beverage Control Investigator
7. Alcohol Beverage Control Manager
8. Alcohol Beverage Control Staff Officer
9. Alcohol Beverage Control Special Investigator
10. Police Officer/Security Guard
11. Maintenance Foreman
12. Maintenance Repairer
13. Maintenance Repairer Master
14. Laborer
15. Trades Apprentice
16. Helper

AUTHORITY NOTE: Promulgated in accordance with Executive Order MJF 98-38 and R.S. 49:1015 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 25:1523 (August 1999).

Brett Crawford
Secretary

9908#004

RULE

Department of Transportation and Development Board of Registration for Professional Engineers and Land Surveyors

Use of Seals (LAC 46:LXI.1701)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and House Concurrent Resolution Number 2 of the 1998 First Extraordinary Session of the 1998 Louisiana Legislature, LAC 46:LXI.1701a, b, d, and e have been amended. The text of the House Concurrent Resolution was published in the *Louisiana Register*, Volume 24, Number 6, June 1998, page 1207.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXI. Professional Engineers and Land Surveyors

Chapter 17. Use of Seals

§1701. Seal and Signature

The following rules for the use of seals to identify work performed by a registered professional engineer or professional land surveyor shall be binding on every registrant.

1. Each registered professional engineer or professional land surveyor, upon registration, shall obtain an official seal. The size and design of the seal shall conform to the specifications in Subsection I of this Section.

2. The registrant shall affix his seal, sign his name, and place the date of execution on all engineering and surveying documents that have been issued by the registrant to a client or any public or governmental agency as completed work. A facsimile signature is not acceptable. Preliminary documents, so marked in large bold letters, shall contain a statement that the documents are not to be used for construction, bidding, recordation, conveyance, sales, or as the basis for the issuance of a permit. Preliminary documents are not required to have the registrant's seal and signature affixed, but must bear the name and registration number of the registrant, and the firm's name, if applicable. No seal, signature or date shall be required in any of the following situations:

a. on any sewage facility project in which the estimated number of gallons of sewage affected does not exceed three thousand per day, as calculated by agency engineers reviewing the project;

b. on any water facility project in which the estimated number of gallons of water affected does not exceed three thousand per day, as calculated by agency engineers reviewing the project; provided that such project

does not cause a change in treatment, chemical addition, or any other process affecting either the quality or quantity of water being produced;

c. on any project for the construction of individual/private water wells;

d. on any project involving both water and sewage facilities, provided that the estimated number of gallons of water affected does not exceed three thousand per day nor the estimated number of gallons of sewage affected does not exceed three thousand per day, as calculated by agency engineers reviewing the project;

e. in-kind replacement of water or sewage facilities in which the estimated number of gallons of water affected does not exceed three thousand per day nor the estimated number of gallons of sewage affected does not exceed three thousand per day, as calculated by agency engineers reviewing the project.

3. - 9.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:112 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:287 (April 1996), LR 23:869 (July 1998), amended by the Louisiana Legislature, House Concurrent Resolution Number 2 of the 1998 First Extraordinary Session, LR 24:1207, repromulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR:1525 (August 1999).

H. Glen Kent, Jr.
Executive Secretary

9908#018

RULE

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

**Resident Game Hunting Season 1999-2000
(LAC 76:XIX.101 and 103)**

(Editor's Note: The table in §103.D is being republished to correct typographical errors. This rule can be viewed in its entirety on pages 1289 through 1291 of the July 20, 1999 Louisiana Register.)

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§103. Resident Game Birds and Animals 1999-2000

A. - C. ...

D. Modern Firearm Schedule (Either Sex Seasons)

Area	Basic Season Dates	Total Days	Exceptions (those portions of the following parishes)
1	Nov. 20-21, 26-28 Dec. 4-5, 11-12, 18-19	11	Nov. 20-21, 26-28 (Franklin, Catahoula, LaSalle, Caldwell) Nov. 20-21, 26-28, Dec. 11-12 (Avoyelles), Nov. 20-21, 26-28, Dec.4-5,11-12 (Grant and Rapides)
2	Nov. 6-7, 13-14, 20-21, 26-28, Dec. 4-5, 11-12	13	Nov. 6-7, 26-28 (Caldwell, LaSalle) Nov. 6-7, 26-28, Dec. 11-12 (Avoyelles)
3	Oct. 16-17, 23-24, Oct. 30-31, Nov. 6-7, 20-21, 26-28	13	Oct. 16-17, Nov. 26-28, Dec. 11-12 (St. Landry)
4	Nov. 20-21, 26-28 (except East Carroll)	5	Nov. 20-21, 26-28, Dec. 4-5, 11-12 (East Carroll That portion between the Mississippi River Levee and the Mississippi River)
5	None		
6	Nov. 20-21, 26-28, Dec. 4-5, 11-12, 18-19	11	Nov. 20-21, 26-28, Dec. 11-12 (Avoyelles, St. Landry), Nov. 20-21, 26-28, Dec. 4-5, 11-12 (Rapides)
7	Oct. 16-17, Nov. 20-21, 26-28, Dec. 11-12, 18-19	11	

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR:1526 (August 1999).

Bill A. Busbice, Jr.
Chairman

9908#072

Notices of Intent

NOTICE OF INTENT

Department of Economic Development Office of the Secretary

Repeal of Rules for Watchmaking (LAC 46:LXXXVII)

In accordance with La. R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Louisiana Department of Economic Development intends to repeal, in its entirety, Louisiana Administrative Code Title 46, Professional and Occupational Standards, Part LXXXVII, Watchmakers.

Acts 1991, No. 64 §1 repealed La. R.S. 36:106(E)(6) and Chapter 19 of Title 37 of the Louisiana Revised Statutes (R.S. 37:1581 through 1612) relative to the practice of watchmaking, the regulation of the practice of watchmaking and repealing the Board of Examiners in Watchmaking and its powers, duties, functions, and responsibilities. The repeal of this legislation renders the Louisiana Department of Economic Development without the authority to administer the rules pertaining to the practice and regulation of watchmaking.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXVII. Watchmakers

Chapters 1-13. Repealed.

The proposed repeal of these rules is scheduled to become effective upon Final promulgation, or as soon thereafter as is practical, upon publication in the *Louisiana Register*. Interested persons may submit written comments until 30 days from the date of this publication, to Kevin P. Reilly, Sr. Secretary, Department of Economic Development, P.O. Box 94185, Baton Rouge, Louisiana 70804.

Kevin P. Reilly, Sr.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Repeal of Rules for Watchmaking

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no significant implementation costs or savings to state or local governmental units anticipated due to the repeal of these rules because the Board of Examiners in Watchmaking was repealed in its entirety by Acts 1991, No. 64, §1.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of repealing this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated.

Ron J. Henson
Undersecretary
9908#027

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 Louisiana Handbook for School
Administrators and Bulletin 746 Louisiana
Standards for State Certification of School
Personnel Employment of School Superintendents
(LAC 28:I.901 and 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 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975), and an amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. The proposed amendment to Bulletin 741 adds Standard 1.016.01 which will enable a school district with a K-12 population in excess of 45,000 students (Orleans, East Baton Rouge, Jefferson and Caddo Parishes), through its locally authorized governing board, to select a superintendent who does not hold a valid state issued teaching certificate provided that the district appoints a chief academic officer whose primary and substantial job description consists of governing academics including curriculum and instruction. This chief academic officer must hold a valid teaching certificate, meet all BESE criteria set forth for superintendents, and must be appointed no later than 120 days after the superintendent's appointment. The proposed addition to Bulletin 746 references Bulletin 741 for allowable circumstances for waivers of the above requirements.

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 by the Board of Elementary and Secondary Education in R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 24:1085 (June 1998), LR 25:

Bulletin 741 Louisiana Handbook for School Administrators

1.016.01 In the event that a school district in Louisiana, through its locally authorized governing board, chooses to select a superintendent who does not hold a valid state issued teaching certificate, such school district may appoint the candidate provided that:

a) the district appoint a chief academic officer whose primary and substantial job description shall govern the academics of the district including curriculum and instruction;

b) the chief academic officer possess a valid state issued teaching certificate;

c) the chief academic officer also meet all criteria required of a superintendent set forth in existing SBESE policy;

d) this shall only effect districts with a K-12 population in excess of 45,000 students;

e) provide that the chief academic officer be appointed no later than 120 days after the appointment of the superintendent candidate.

* * *

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.(A)(10),(11),(15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 24:283 (February 1997), LR 24:1091 (June 1998), LR 25:

Bulletin 746 Louisiana Standards for State Certification of School Personnel

Addition to Bulletin 746:

Allowable circumstances for waiver of these requirements are addressed in Bulletin 741, Louisiana Handbook for School Administrators.

Interested persons may submit comments until 4:30 p.m., October 11, 1999 to Jeannie Stokes, 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: Employment of School Superintendents

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$60. Funds are available.

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 will be no additional costs or economic benefits as a result of this policy revision for persons seeking employment as school superintendent.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action will result in a larger pool of individuals who are eligible for employment as school superintendent in the specified districts.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9908#046

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for State Certification of School Personnel Policy on Suspension, Revocation, and Reinstatement of Certificates for Criminal Offenses (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 addition to be added to Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. The proposed amendment adds the policy on suspension, revocation, and reinstatement of certificates for persons who have been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense.

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

B. - D.3. ...

E.l.a. - e. Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:193, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 24:283 (February 1998), LR 24:1091 (June 1998), LR 25:

Suspension, Revocation, and Reinstatement of Certificates for Criminal Offenses

I. A Louisiana teaching certificate shall be suspended and revoked if the individual holding the certificate has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever.

II. For the purposes of this policy:

The term "offense" or "crime" shall include those listed in R.S. 15.587.1(C) and any felony offense whatsoever.

The term "teaching certificate" or "certificate" shall include any license, permit, or certificate issued by the Certification and Higher Education section of the Department of Education.

The term "teacher" shall include any person holding any permanent, ancillary, or temporary teaching certificate.

The term "convicted" or "conviction" shall include any proceedings in which the accused pleads guilty or no contest and those proceedings that are tried and result in a judgement of guilty.

The term "Department" refers to the Louisiana Department of Education.

The term "Board" refers to the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

III. Any conviction that results in a suspended sentence pursuant to Articles 893 or 894 of the Louisiana Code of Criminal Procedures, shall be treated as a conviction for the purposes of suspension and/or revocation.

Gubernatorial pardons, first offender pardons, and expungement may be used as evidence of rehabilitation, but shall not preclude suspension and/or revocation of a teaching certificate.

IV. When the Department is notified that any teacher has been convicted of a specific crime:

A. Department staff shall attempt to contact the teacher to inform him/her that the Department has information regarding a criminal conviction and is proceeding under this policy to suspend the certificate.

B. The teacher shall have 10 working days from the date of notification to provide verification that he/she has not been convicted of a criminal offense. This opportunity for response is intended as a check against mistaken identity or other incorrect information and the requested verification may be provided through a telephone conversation or written correspondence.

C. If the Department determines that there is evidence that a teacher has been convicted of a criminal offense, that teacher's certificate shall be suspended. The Board, the teacher, and the employing school system shall be notified that the teacher's certificate has been suspended pending official Board action.

D. The teacher shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been suspended and that a hearing will be conducted by the Board to consider revocation.

E. If the teacher cannot be reached and/or if his/her employment status cannot be determined, suspension of the certificate shall proceed as will all other steps in the process outlined in this policy.

F. A teacher may contact the office of the Board of Elementary and Secondary Education and request a hearing prior to the date set for the revocation consideration by the Board. Such hearing will be limited to a determination of the individual's true identity and true conviction status. The teacher shall provide copies of any documents that verify his/her identity and refute the existence of a criminal conviction.

V. Upon official action by the Board, any teacher whose certificate has been revoked, shall be notified of such action by certified mail. The correspondence shall include instructions for and identification of the date when the individual may apply to the Board for reinstatement of his/her certificate.

VI. If the conviction upon which a teacher's certificate has been suspended and/or revoked is reversed, set aside, or vacated, such action may be communicated to the Board through documentation from the court in which the conviction occurred. The Board may receive such information and order immediate reinstatement of the teacher's certificate.

VII. Time Restrictions on Applications for Reinstatement:

A. Reinstatement will never be considered for teachers convicted of the following crimes: 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:44, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286.

B. For other final convictions rendered 0 to 3 years prior to revocation, reinstatement will not be considered for at least 3 years from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

C. For other final convictions rendered 4 to 6 years prior to revocation, reinstatement will not be considered for at least 2 years from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

D. For other final convictions rendered 7 to 9 years prior to revocation, reinstatement will not be considered for at least 1 year from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

E. For other final convictions rendered more than 9 years prior, a teacher may apply immediately for reinstatement.

VIII. Procedures for Reinstatement:

A. An individual may apply to the Board for reinstatement of his/her teaching certificate after the lapse of time indicated above and under the following conditions.

1. There have been no other arrests or convictions (the applicant must provide a current background check that is clean and clear).

2. There has been successful completion of all conditions/requirements of parole and/or probation (the applicant must provide copies of court records, sentencing recommendations, probation release forms, etc. and written verification that all requirements have been completed and/or met).

3. There is documented evidence of rehabilitation (the applicant is responsible for providing copies of every requested document).

B. The applicant must:

1. contact the office of the Board of Elementary and Secondary Education;

2. provide each item identified above (VIII.A.1 and 2) and below (VIII.C.1 through 6);

3. request a reinstatement hearing.

C. Evidence of rehabilitation shall include but not be limited to:

1. letter of support from a local district attorney;

2. letter of support from a local judge;

3. letter of support from the applicant's parole/probation officer, local police chief, or local sheriff

4. letter of support from a local school superintendent;

5. letter of support from a local community person (business owner, minister, priest, rabbi, city council person, etc.);

6. other letters of support or written reports that verify the applicant's rehabilitation.

D. The Board is not required to conduct a reinstatement hearing and may summarily deny a request for reinstatement.

E. If the Board or its designees decide to conduct a reinstatement hearing, Board staff shall notify the applicant of a date, time, and place when a committee of the Board shall consider the applicant's request. The applicant may be represented/accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. The written documentation provided prior to the hearing will also be considered.

F. The committee of the Board shall make a recommendation to the full Board regarding whether the applicant's teaching certificate should be reinstated, suspended for an additional period of time, or remain revoked. Board staff shall notify the applicant of the Board's action.

IX. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation.

The Board of Elementary and Secondary Education reserves the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for a teaching certificate.

Note: The Administrative Procedure Act shall be applied where applicable (R.S. 49:950, et seq.).

Interested persons may submit comments until 4:30 p.m., October 9, 1999 to: Jeannie Stokes, 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: Suspension, Revocation, and Reinstatement of Certificates for Criminal Offenses

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

SBESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$60. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This policy requires that any person who holds a teaching certificate and has been convicted of any offense listed in R.S. 15:587.1 or any felony offense whatsoever would be required to follow the prescribed procedures for consideration of certificate reinstatement, if reinstatement is possible, after suspension and revocation of the certificate.

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
9908#045

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566 Guidelines for Pupil Progression
(Title 28:XXXIX.307)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 1566, Guidelines for Pupil Progression. The amendment changes the approval and submission process of plans to the Department of Education. Plans will no longer be approved by the Department of Education.

Title 28 EDUCATION

Part XXXIX. Bulletin 1566 Guidelines for Pupil Progression

Chapter 3. General Procedure for Development; Approval and Revision of a Pupil Progression Plan

§307. Submission Process

A. Upon adoption for submission by the local school board, the plan along with a formal submission statement shall be submitted annually to the Office of Student and School Performance. Documentation of input in the plans development by educators and parents as well as public notice prior to local board approval (including dates and locations) must be submitted.

B.1. - 4. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25, amended LR 25:

Interested persons may submit written comments until 4:30 p.m., October 9, 1999 to Jeannie Stokes, 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 1566 Guidelines
for Pupil Progression**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There is no estimated cost to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no 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)
There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups; although schools and students should have better accountability.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9908#044

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Payment Program for Medical School Students
(LAC 28:IV.2301, 2303, 2313)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to amend provisions of the Tuition Payment Program for Medical School Students.

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., September 20, 1999, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Tuition Payment Program for Medical
School Students**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The implementation cost associated with promulgating these rules is the routine *Louisiana Register* publication charge for the emergency declaration, notice and rule of approximately \$140.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact on revenue collections is anticipated to result from this rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Students who receive tuition payments from this program will be required to serve two years, rather than four years in health shortage areas as a result of this rule change.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition and employment should result from this rule change.

Jack L. Guinn
Executive Director
9908#015

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

1998 Revisions to Surface Water Quality Standards
(LAC 33:IX.1105, 1111, 1113,
1115, 1117, 1121, 1123)(WP033)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.1105, 1111, 1113, 1115, 1117, 1121, and 1123 (Log #WP033).

The water quality standards establish provisions for the protection of instream water quality and consist of policy statements, designated water uses, and numerical and narrative criteria, which sets limits for various water quality parameters. This proposed revision to the current water quality standards includes: addition of new language that states the use of clean or ultra clean techniques may be necessary in some situations; revision of several numerical criteria with current data; addition of updated and new references for biomonitoring; revision of numerical criteria and designated uses table; and addition of language to clarify the links between dissolved oxygen and the designated uses

for fish and wildlife propagation. The water quality standards are applicable to the ambient surface waters of streams and other waterbodies of the state and do not apply to groundwater. The basis and rationale for this proposed rule are to comply with federal law governing water quality standards that requires states to review and revise, as appropriate, their water quality standards every three years [Water Quality Act of 1987 PL 100-4 Section 303(c)].

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality Regulations

Chapter 11. Surface Water Quality Standards

§1105. Definitions

* * *

[See prior text]

Clean Techniques those requirements (or practices for sample collection and handling) necessary to produce reliable analytical data in the microgram per liter (µg/L) or part per billion (ppb) range.

* * *

[See prior text]

Ultra-Clean Techniques those requirements or practices necessary to produce reliable analytical data in the nanogram per liter (ng/L) or part per trillion (ppt) range.

* * *

[See prior text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§1111. Water Use Designations

There are seven water uses designated for surface waters in Louisiana: primary contact recreation, secondary contact recreation, fish and wildlife propagation, drinking water supply, oyster propagation, agriculture, and outstanding natural resource waters. Designated uses assigned to each subsegment apply to all water bodies (listed water body and tributaries/distributaries of the listed water body) contained in that subsegment unless unique chemical, physical, and/or biological conditions preclude such uses. However, the designated uses of drinking water supply, oyster propagation, and/or outstanding natural resource waters apply only to the water bodies specifically named in Table 3 (LAC 33:IX.1123) and not to any tributaries and distributaries to such water body which are typically contained in separate subsegments. A description of each designated use follows.

* * *

[See prior text in A-B]

C. Fish and Wildlife Propagation. Fish and wildlife propagation includes the use of water for aquatic habitat,

food, resting, reproduction, cover, and/or travel corridors for any indigenous wildlife and aquatic life species associated with the aquatic environment. This use also includes the maintenance of water quality at a level that prevents damage to indigenous wildlife and aquatic life species associated with the aquatic environment and contamination of aquatic biota consumed by humans. The subcategory of "limited aquatic life and wildlife use" recognizes the natural variability of aquatic habitats, community requirements, and local environmental conditions. Limited aquatic life and wildlife use may be designated for water bodies having habitat that is uniform in structure and morphology with most of the regionally expected aquatic species absent, low species diversity and richness, and/or a severely imbalanced trophic structure. Aquatic life able to survive and/or propagate in such water bodies include species tolerant of severe or variable environmental conditions. Water bodies that might qualify for the limited aquatic life and wildlife use subcategory include intermittent streams and man-made water bodies with characteristics including, but not limited to, irreversible hydrologic modification, anthropogenically and irreversibly degraded water quality, uniform channel morphology, lack of channel structure, uniform substrate, lack of riparian structure, and similar characteristics making the available habitat for aquatic life and wildlife suboptimal. Limited aquatic life and wildlife use will be denoted in Table 3 (LAC 33:IX.1123) as an "L."

* * *

[See prior text in D-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§1113. Criteria

* * *

[See prior text in A-C.2]

3. Dissolved Oxygen. The following dissolved oxygen (DO) values represent minimum criteria for the type of water specified. Naturally occurring variations below the criterion specified may occur for short periods. These variations reflect such natural phenomena as the reduction in photosynthetic activity and oxygen production by plants during hours of darkness. However, no waste discharge or human activity shall lower the DO concentration below the specified minimum. These DO criteria are designed to protect indigenous wildlife and aquatic life species associated with the aquatic environment and shall apply except in those water bodies that qualify for an excepted water use as specified in LAC 33:IX.1109.C or where exempted or excluded elsewhere in these standards. DO criteria for specific state water bodies are contained in LAC 33:IX.1123.

a. Fresh Water. For a diversified population of fresh warmwater biota including sport fish, the DO concentration shall be at or above 5 mg/L. Fresh warmwater biota is defined in LAC 33:IX.1105.

* * *

[See prior text in C.3.b-6.e]

f. The use of clean or ultra-clean techniques may be required to definitively assess ambient levels of some pollutants (e.g., EPA method 1669 for metals) or to assess

such pollutants when numeric or narrative water quality standards are not being attained. Clean and ultra-clean techniques are defined in LAC 33:IX.1105.

Table 1 Numerical Criteria for Specific Toxic Substances (In micrograms per liter (µg/L) or parts per billion (ppb) unless designated otherwise)						
Toxic Substance	Aquatic Life Protection				Human Health Protection	
	Freshwater		Marine Water		Drinking Water Supply ¹	Non-Drinking Water Supply ²
	Acute	Chronic	Acute	Chronic		
Pesticides and PCB's * * *						
[See prior text in Aldrin – DDE]						
Dieldrin	0.2374	0.0557	0.710	0.0019	0.05 ng/l	0.05 ng/l
Endosulfan	0.22	0.0560	0.034	0.0087	0.47	0.64
Endrin	0.0864	0.0375	0.037	0.0023	0.26	0.26
* * *						
[See prior text in Heptachlor - 2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD) ⁹]						
Metals and Inorganics						
Arsenic	339.8	147.9	69.00	36.00	50.0	--
Chromium III (Tri) ^{7,8}	310	103	515.00	103.00	50.0	--
	537	181				
	980	318				
Chromium VI (Hex)	16	11	1.10 mg/L	50.00	50.0	--
Zinc ^{7,8}	64	58	90	81	5.0 mg/L	--
	117	108				
	205	187				
Cadmium ^{7,8}	15	0.62	45.34	10.00	10.0	--
	32	1.03				
	67	1.76				
Copper ^{7,8}	10	7	3.63	3.63	1.0 mg/L	--
	18	12				
	35	22				
Lead ^{7,8}	30	1.2	209	8.08	50.0	--
	65	2.5				
	138	5.31				
Mercury ⁸	2.04	0.012 ¹¹	2	0.025 ¹¹	2.0	--
Nickel ^{7,8}	788	88	74	8.2	--	--
	1397	160				
	2,495	279				
* * *						
[See prior text in Cyanide]						

* * *

[See prior text in Notes 1 - 6]

⁷ Hardness-dependent criteria for freshwater are based on the following natural logarithm formulas multiplied by conversion factors (CF) for acute and chronic protection (in descending order, numbers represent criteria in µg/L at hardness values of 50, 100, and 200 mg/L CaCO₃, respectively):

$$\text{Chromium III: acute} = e^{(0.8190[\ln(\text{hardness})] + 3.6880)} \times \text{CF}$$

$$\text{chronic} = e^{(0.8190[\ln(\text{hardness})] + 1.5610)} \times \text{CF}$$

$$\text{Zinc: acute} = e^{(0.8473[\ln(\text{hardness})] + 0.8604)} \times \text{CF}$$

$$\text{chronic} = e^{(0.8473[\ln(\text{hardness})] + 0.7614)} \times \text{CF}$$

$$\text{Cadmium: acute} = e^{(1.1280[\ln(\text{hardness})] - 1.6774)} \times \text{CF}$$

$$\text{chronic} = e^{(0.7852[\ln(\text{hardness})] - 3.4900)} \times \text{CF}$$

$$\text{Copper: acute} = e^{(0.9422[\ln(\text{hardness})] - 1.3844)} \times \text{CF}$$

$$\text{chronic} = e^{(0.8545[\ln(\text{hardness})] - 1.3860)} \times \text{CF}$$

$$\text{Lead: acute} = e^{(1.2730[\ln(\text{hardness})] - 1.4600)} \times \text{CF}$$

$$\text{chronic} = e^{(1.2730[\ln(\text{hardness})] - 4.7050)} \times \text{CF}$$

$$\text{Nickel: acute} = e^{(0.8460[\ln(\text{hardness})] + 3.3612)} \times \text{CF}$$

$$\text{chronic} = e^{(0.8460[\ln(\text{hardness})] + 1.1645)} \times \text{CF}$$

⁸ Freshwater and saltwater metals criteria are expressed in terms of the dissolved metal in the water column. The standard was calculated by multiplying the previous water quality criteria by a conversion factor (CF). The CF represents the EPA-recommended conversion factors found in 60 FR 68354-68364 (December 10, 1998) and shown in Table 1A.

⁹ ppq = parts per quadrillion

¹⁰ Advances in scientific knowledge concerning the toxicity, cancer potency, metabolism, or exposure pathways of toxic pollutants that affect the assumptions on which existing criteria are based may necessitate a revision of dioxin numerical criteria at any time. Such revisions, however, will be accomplished only after proper consideration of designated water uses. Any proposed revision will be consistent with state and federal regulations.

¹¹ If the four-day average concentration for total mercury exceeds 0.012 µg/L in freshwater or 0.025 µg/L in saltwater more than once in a three-year period, the edible portion of aquatic species of concern must be analyzed to determine

whether the concentration of methyl mercury exceeds the FDA action level (1.0 mg/kg). If the FDA action level is exceeded, the state must notify the appropriate EPA Regional Administrator, initiate a revision of its mercury

criterion in its water quality standards so as to protect designated uses, and take other appropriate action such as issuance of a fish consumption advisory for the affected area.

Metal	Conversion Factor Freshwater Acute Criteria	Conversion Factor Freshwater Chronic Criteria	Conversion Factor Marine Water Acute Criteria	Conversion Factor Marine Water Chronic Criteria
Arsenic	1.00	1.00	1.00	1.00
Chromium III (Tri)	0.316	0.86	NA	NA
Chromium VI (Hex)	0.982	0.962	0.993	0.993
Zinc	0.978	0.986	0.946	0.946
Cadmium ^b	0.973	0.938	0.994	0.994
Copper	0.960	0.960	0.830	0.830
Lead ^b	0.892	0.892	0.951	0.951
Mercury	0.85 ^c	N/A ^d	0.85 ^c	N/A ^d
Nickel	0.998	0.997	0.990	0.990

^aThe conversion factors are given to three decimal places because they are intermediate values in the calculation of dissolved criteria. Conversion factors for the marine water chronic criteria are not yet available.

^bConversion factors are hardness dependent. The values shown are with a hardness of 50 mg/L as CaCO₃. Conversion factors for any hardness can be calculated using the following equations:

Cadmium Acute CF = 1.136672-[(ln hardness)(0.041838)]
 Cadmium Chronic CF = 1.101672-[(ln hardness)(0.041838)]

Lead Acute and Chronic CF = 1.46203-[(ln hardness)(0.145712)]

^cConversion factor from: Office of Water Policy and Technical Guidance on Interpretation and Implementation of Aquatic Life Metals Criteria, October 1, 1993. Factors were expressed to two decimal places.

^dNot appropriate to apply CF to chronic value for mercury because it is based on mercury residues in aquatic organisms rather than toxicity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November 1991), amended LR 20:883 (August 1994), LR 24:688 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§1115. Application Of Standards

* * *

[See prior text in A-C.3]

4. A mixing zone shall not be allowed to adversely impact a nursery area for aquatic life species, habitat for waterfowl or indigenous wildlife associated with the aquatic environment, or any area approved by the state for oyster propagation. Mixing and mixing zones shall not include an existing drinking water supply intake if they would significantly impair the drinking water intake.

* * *

[See prior text in C.5-13.a]

b. the diffused discharge must not adversely impact nursery areas for aquatic life species or indigenous wildlife associated with the aquatic environment, propagation areas, zones of passage for aquatic life (see Subsection C.10 of this Section), wildlife uses, recreational uses, or drinking water supply intakes;

* * *

[See prior text in C.13.c-f]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November, 1991), amended LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§1117. References

A. The following references were used in developing LAC 33:IX.1101–1115 or are referred to in those Sections:

1. Chabreck, R.H., and R.G. Linscombe. 1978. Vegetative Type Map of the Louisiana Coastal Marshes. New Orleans: Louisiana Department of Wildlife and Fisheries.
2. Louisiana Department of Environmental Quality. (continuous). Fixed Station Long-Term Ambient Surface Water Quality Network. Baton Rouge: Office of Environmental Assessment, Environmental Evaluation Division.
3. National Academy of Sciences, National Academy of Engineering. 1974. Water Quality Criteria, 1972. Environmental Protection Agency, Ecological Research Series, EPA R3.73:033. Washington, D.C.:U.S. Government Printing Office.
4. U.S. Environmental Protection Agency. 1976. Quality Criteria for Water. Washington, D.C.:EPA.
5. U.S. Environmental Protection Agency. 1983. Water Quality Standards Handbook. WH-585. Washington, D.C.: Office of Water Regulations and Standards, EPA.

6. U.S. Environmental Protection Agency. 1983. Technical Support Manual: Waterbody Surveys and Assessments for Conducting Use Attainability Analyses. WH-585. Washington, D.C.: Office of Water Regulations and Standards, EPA.

7. U.S. Environmental Protection Agency. 1986. Quality Criteria for Water: 1986. EPA Series No. 440/5-86-001. Washington, D.C.: U.S. Government Printing Office.

8. U.S. Environmental Protection Agency. 1989. Establishment of Ambient Criteria to Limit Human Exposure to Contaminants in Fish and Shellfish. Guidance Document. Washington, D.C.: Office of Water Regulations and Standards, EPA.

9. U.S. Environmental Protection Agency. (continuous). Ambient Water Quality Criteria. EPA Series No. 440/5-80-84-85, 86. Washington, D.C.: EPA.

10. U.S. Environmental Protection Agency. 1991. Technical Support Document for Water Quality-Based Toxics Control. EPA/505/2-90-001.

11. U.S. Environmental Protection Agency. December 22, 1992. Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance. Federal Register: Vol. 57, No. 246. WH-FRL-4543-9. Washington, D.C.: Office of Science and Technology, EPA.

12. U.S. Environmental Protection Agency. April, 1995. Method 1669: Sampling Ambient Water for Trace Metals At EPA Water Quality Criteria Levels. EPA 821-R-95-034.

13. Webster's II New Riverside University Dictionary, Anne H. Soukhanov, editor. 1988. Houghton Mifflin Company. Boston, MA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§1121. Regulation of Toxic Substances Based on the General Criteria

* * *

[See prior text in A - B.3.a]

b. Both acute toxicity and chronic toxicity tests may be required. Test methods found in the following sources or their updated versions should be followed: "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms," 4th Edition, EPA/600/4-90/027F, EPA, 1993; "Short-Term Methods for Estimating the Chronic Toxicity of Effluents And Receiving Waters To Freshwater Organisms," 3rd Edition, EPA/600/4-91/002, EPA, 1994; and "Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms," 2nd Edition, EPA/600/4-91/003, EPA.

* * *

[See prior text in B.3.b.i - iii]

(a). for receiving water bodies with salinities less than 2 ‰ (2 ppt or 2,000 ppm):

* * *

[See prior text in B.3.b.iii (a)(i) - (vi)]

(b). for receiving water bodies with salinities equal to or greater than 2 ‰ (2 ppt or 2,000 ppm):

* * *

[See prior text in B.3.b.iii (b)(i) - C.5]

D. References. The following references were used in developing or were cited in this Section:

1. U.S. Environmental Protection Agency. 1986. Quality Criteria for Water: 1986. EPA 440/5-86-001. Washington, D.C.: U.S. Government Printing Office.

2. U.S. Environmental Protection Agency. 1991. Methods for Aquatic Toxicity Identification Evaluations: Phase I, Toxicity Characterization Procedures. EPA/600/6-91/003. Washington, D.C.: EPA.

3. U.S. Environmental Protection Agency. 1991. Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms. 2nd Edition. EPA/600/4-91/003.

4. U.S. Environmental Protection Agency. 1991. Technical Support Document for Water Quality-Based Toxics Control. EPA/505/2-90-001.

5. U.S. Environmental Protection Agency. 1993. Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms. 4th Edition. EPA/600/4-90/027F.

6. U.S. Environmental Protection Agency. 1994. Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms. 3rd Edition. EPA/600/4-91/002.

E. Additional Toxicity Testing Guidance. The following references are cited as guidance documents that are used for biomonitoring:

1. U.S. Environmental Protection Agency. 1994. Methods for Measuring the Toxicity and Bioaccumulation of Sediment-Associated Contaminants with Freshwater Invertebrates. EPA/600/R-94/024.

2. U.S. Environmental Protection Agency. 1994. Methods for Assessing the Toxicity of Sediment Associated Contaminants with Estuarine and Marine Amphipods. EPA/600/R-94/025.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§1123. Numerical Criteria and Designated Uses

* * *

[See prior text in A - C.2]

3. Designated Uses. The following are the category definitions of Designated Uses that are used in Table 3 under the subheading "DESIGNATED USES."

- A- Primary Contact Recreation
- B- Secondary Contact Recreation
- C- Propagation of Fish and Wildlife
- L- Limited Aquatic Life and Wildlife Use
- D- Drinking Water Supply
- E- Oyster Propagation
- F- Agriculture
- G- Outstanding Natural Resource Waters

Numbers in brackets (e.g. [1])—refer to endnotes listed at the end of the table.

Table 3. Numerical Criteria and Designated Uses

Code	Stream Description	Designated Uses	Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
Atchafalaya River Basin (01)									
* * *									
[See prior text in 010101-040910]									
040911	Grand Lagoon - Grand Lagoon and Associated Canals (Estuarine)	A B C	N/A	N/A	4.0	6.0 - 8.5	1	32	N/A
* * *									
[See prior text in 041001 - 041302]									
041401	New Orleans East Leveed Waterbodies (Estuarine)	A B C	N/A	N/A	4.0	6.0 - 8.5	1	32	N/A
* * *									
[See prior text in 041501 - 041807]									
041808	New Canal (Estuarine)	A B C	N/A	N/A	4.0	6.5 - 9.0	1	35	N/A
* * *									
[See prior text in 041901 - 050101]									
050102	Bayou Joe Marcel - Headwaters to Bayou Des Cannes	A B C F	90	30	[16]	6.0 - 8.5	1	32	260
050103	Bayou Mallet - Headwaters to Bayou Des Cannes	A B C F	90	30	[16]	6.0 - 8.5	1	32	260
* * *									
[See prior text in 050201 - 050302]									
050303	Castor Creek - Headwaters to confluence with Bayou Nezpique	A B C	90	30	[16]	6.0 - 8.5	1	32	260
050304	Bayou Blue - Headwaters to confluence with Bayou Nezpique	A B C	90	30	[16]	6.0 - 8.5	1	32	260
* * *									
[See prior text in 050401 - 050501]									
050601	Lacassine Bayou - Headwaters to Grand Lake	A B C F	90	10	[16]	6.0 - 8.5	1	32	400
* * *									
[See prior text 050602 - 060203]									
060204	Bayou Courtableau - origin to West Atchafalaya Borrow Pit Canal	A B C	40	30	5.0	6.0 - 8.5	1	32	220
060206	Indian Creek and Indian Creek Reservoir	A B C D	10	5	5.0	6.0 - 8.5	1	32	100
* * *									
[See prior text in 060207 - 060212]									
060301	Bayou Teche - Headwaters at Bayou Courtableau to Keystone Locks and Dam	A B C	40	30	5.0	6.0 - 8.5	1	32	220
* * *									
[See prior text in 060401 - 060903]									
060904	New Iberia Southern Drainage Canal - origin to Weeks Bay (Estuarine)	A B C	N/A	N/A	4.0	6.5 - 9.0	1	35	N/A

060906	Intracoastal Waterway - New Iberia Southern Drainage Canal to Bayou Sale (Estuarine)	A B C	N/A	N/A	4.0	6.5 - 9.0	1	35	N/A
* * *									
[See prior text in 060907 - 061104]									
061105	Marsh Island (Estuarine)	A B C	N/A	N/A	4.0	6.5 - 9.0	4	35	N/A
* * *									
[See prior text in 061201 - 080911]									
080912	Tisdale Brake/Staulkinghead Creek - from origin to Little Bayou Boeuf	B L	500	200	[13]	6.0 - 8.5	2	32	1,500
* * *									
[See prior text in 081001 - 081002]									
081003	Deer Creek - Headwaters to confluence with Boeuf River	B L	105	45	[13]	6.0 - 8.5	2	32	430
* * *									
[See prior text in 081101 - 081301]									
081401	Dugdemona River - Headwaters to junction with Big Creek	A B C	250	750	[14]	6.0 - 8.5	1	32	2,000
* * *									
[See prior text in 081501 - 100304]									
100305	Mahlin Bayou/McCain Creek – origin to confluence with Twelve Mile Bayou	B L	175	75	[13]	6.0 - 8.5	2	32	500
* * *									
[See prior text in 100306 - 100401]									
100402	Red Chute Bayou - from Cypress Bayou junction to Flat River	A B C	250	75	[13]	6.0 - 8.5	1	32	800
* * *									
[See prior text in 100403 - 101606]									
101607	Bayou Cocodrie - Highway 15 to Little Cross Bayou	B L	250	75	[13]	6.0 - 8.5	2	32	500
* * *									
[See prior text in 110101 - 120509]									
120601	Bayou Terrebonne - Houma to Company Canal (Estuarine)	A B C	445	105	4.0	6.0 - 9.0	1	32	1,230
* * *									
[See prior text in 120602 - 120806]									

Endnotes:

[See prior text in Notes 1 - 2]

[3] Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5.0 mg/L December - February, 3.0 mg/L March - November

[See prior text in Notes 4 - 16]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1123 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

A public hearing will be held on September 27, 1999, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by WP033. Such comments must be received no later than October 4, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of WP033.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: 1998 Revisions to Surface Water Quality
Standards**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

No significant effect of this proposed rule on state or local governmental expenditures is anticipated. Some local municipal sewage treatment plants may experience slight increases in upgrade or operating costs, depending on the significance of industrial discharges into their systems. Costs incurred as a result of this rule may be conveyed to industrial facilities through increased user fees. Most costs required to meet the proposed water quality standards limits have already been required by the US Environmental Protection Agency (EPA) to meet current water quality-based and/or technology-based permit limits.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

No significant effect on state or local governmental revenue collections is anticipated. State or local municipal sewage treatment plants may raise user fees charged to industrial customers to cover their costs, if any costs are incurred. Increases in user fees resulting from this rule are site-specific, are determined by the individual sewage treatment plant's circumstances, and cannot be estimated at this time.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

No significant costs and/or economic benefits to directly affected persons or non-governmental groups are anticipated. Members of the regulated community subject to these revised water quality standards may incur some additional costs due to increased controls on toxic substances to protect aquatic life and beneficial uses. However, it is not anticipated that these standards will impose a significant increase in costs beyond that attributable to existing state and federal permit requirements. Increases in costs beyond present state and federal requirements can be reduced by practicing the use of source reduction or pollution prevention. Business and industrial customers using municipal sewage treatment plants may experience a slight increase in user fees; however, these costs are site-specific, are determined by the individual sewage treatment plant's circumstances, and cannot be estimated at this time. One very important benefit is the enhanced protection of Louisiana's seafood industry through the possible decrease in exposure to toxic substances within the ambient waters of the state.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

No significant effect on competition and employment is anticipated.

James H. Brent, Ph.D.
Assistant Secretary
9908#048

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Incorporation by Reference of 40 CFR Parts 60, 61, and 63
(LAC 33:III.3003, 5116, and 5122)(AQ194*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality regulations, LAC 33:III.3003, 5116, and 5122 (Log #AQ194*).

This proposed rule is identical to a federal regulation found in 64 FR 7463-7468, February 12, 1999, No. 29, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule incorporates revisions to 40 CFR Part 60, Subparts A, D, Da, Db, Dc, Ea, J, CC, NN, XX, AAA, and SSS; Part 61, Subparts A, L, and N; and Part 63, Subpart A as published in the Federal Register, February 12, 1999, volume 64, number 29, pages 7457 and 7463-7467. Also, revisions are made to clarify the date of the revised standards incorporated by reference in Chapters 30 and 51.

The Department of Environmental Quality has program delegation authority from the US Environmental Protection Agency for 40 CFR Parts 60, 61, and 63. To obtain delegated authority for individual federal standards, the state must adopt the federal regulations into the Louisiana Administrative Code. Such action is taken at this time so that existing state and federal standards will reflect the same recordkeeping requirements. The basis and rationale for this proposed rule are to mirror the federal regulations.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

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

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference (IBR)

§3003. IBR 40 Code of Federal Regulations (CFR)

Part 60

* * *

[See Prior Text in A-Table 1.A]

B. Final regulations published in the *Federal Register* on February 12, 1999, and specified below in Table 2 are hereby incorporated by reference as they apply to the State of Louisiana.

Table 2. 40 CFR Part 60			
40 CFR Part 60 Subpart /Appendix	Subpart Heading/Appendix	Federal Register Citation	Date Promulgated
Subpart Ea	Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989, and on or Before September 20, 1994	64 FR 7465	February 12, 1999
Subpart J	Standards of Performance for Petroleum Refineries	64 FR 7465	February 12, 1999
Subpart CC	Standards of Performance for Glass Manufacturing Plants	64 FR 7466	February 12, 1999
Subpart NN	Standards of Performance for Phosphate Rock Plants	64 FR 7466	February 12, 1999
Subpart XX	Standards of Performance for Bulk Gasoline Terminals	64 FR 7466	February 12, 1999
Subpart AAA	Standards of Performance for New Residential Wood Heaters	64 FR 7466	February 12, 1999
Subpart SSS	Standards of Performance for Magnetic Tape Coating Facilities	64 FR 7467	February 12, 1999

* * *

[See Prior Text in C-D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:

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

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

* * *

[See Prior Text in A]

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the *Federal Register* as promulgated February 12, 1999, and specifically listed in the following

Table 2. 40 CFR Part 60			
40 CFR Part 60 Subpart /Appendix	Subpart Heading/Appendix	Federal Register Citation	Date Promulgated
Subpart A	General Provisions	64 FR 7463	February 12, 1999
Subpart D	Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971	64 FR 7464	February 12, 1999
Subpart Da	Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978	64 FR 7464	February 12, 1999
Subpart Db	Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units	64 FR 7464	February 12, 1999
Subpart Dc	Standards of Performance for Small Industrial - Commercial-Institutional Steam Generating Units	64 FR 7465	February 12, 1999

table are hereby incorporated by reference as they apply to sources in the State of Louisiana.

40 CFR 61	Federal Register Citation	Date Promulgated	Subpart/Appendix Heading
Subpart A	64 FR 7457	February 12, 1999	General Provisions
Subpart L	64 FR 7457	February 12, 1999	National Emission Standard for Benzene Emissions from Coke By-Products Recovery Plants
Subpart N	64 FR 7457	February 12, 1999	National Emission Standards for Inorganic Arsenic Emissions From Glass Manufacturing Plants

C. Corrective changes are made to 40 CFR part 61 subpart A, section 61.04(b)(T), to read as follows: State of Louisiana: Technical Support Section Program Manager, Permits Division, Office of Environmental Services, Louisiana Department of Environmental Quality, Box 82135, Baton Rouge, LA 70884-2135.

D. Copies of documents incorporated by reference in this Chapter are available for review at the Office of Environmental Services, Environmental Assistance Division Information Center, Louisiana Department of Environmental Quality, or may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

* * *

[See Prior Text in A]

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Federal Register* as promulgated February 12, 1999, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the State of Louisiana.

40 CFR 63	Federal Register Citation	Date Promulgated	Subpart/Appendix Heading
Subpart A	64 FR 7457	February 12, 1999	General Provisions

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:

A public hearing will be held on September 27, 1999, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ194*. Such comments must be received no later than September 27, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ194*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

9908#051

NOTICE OF INTENT

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

Lists of Hazardous Wastes
(LAC 33:V.Chapter 49)(HW068P)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.Chapter 49.Appendix E (Log #HW068P).

DuPont Dow Elastomers L.L.C. has petitioned to exclude from the hazardous waste regulations (delist) a derived-from hazardous waste, known as Dynawave Scrubber Effluent, resulting from the combustion of non-specific source (i.e., spent solvent) listed hazardous wastes in a halogen acid furnace to produce aqueous hydrochloric acid. This waste stream is generated at DuPont's Ponchartrain Site in LaPlace, Louisiana. LAC 33:V.105.M allows a hazardous waste generator to petition the department for this kind of rulemaking when a listed hazardous waste does not meet any of the criteria that justified the original listing. Based on extensive testing, the department has determined that the nature of this material does not warrant retaining this material as a hazardous waste. The basis and rationale for this proposed rule are to grant the delisting petition based on the supporting documentation found in the 17-volume set dated and received on December 15, 1998, titled "Hazardous Waste Delisting Petition for Dynawave Scrubber Effluent" by DuPont Dow Elastomers L.L.C. of LaPlace, Louisiana. DuPont, the generator of the waste stream, has demonstrated through extensive sampling and analyses that this material, the Dynawave Scrubber Effluent, does not exhibit the hazardous properties that originally justified its listing as a hazardous waste.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental
Quality—Hazardous Waste
Chapter 49. Lists of Hazardous Wastes
Appendix E - Wastes Excluded under LAC 33:V.105.M

Table E1 - Wastes Excluded	
Facility	Address
DuPont Dow Elastomers L.L.C.	LaPlace, LA
Waste Description	
Dynawave Scrubber Effluent is generated through the combustion of organic waste feed streams carrying the listed EPA Hazardous Waste Numbers F001, F002, F003, and F005. The specific hazardous waste streams being combusted and their EPA Hazardous Waste Numbers are: HCl Feed - D001, D002, and D007; Ponchartrain CD Heels - D001 and F005; Waste Organics - D001, D007, and F005; Catalyst Sludge Receiver (CSR) Sludge - D001, D007, and F005; Isom Purge - D001, D002, and F005; and Louisville CD Heels - D001, D007, D039, F001, F002, F003, and F005. DuPont Dow Elastomers must implement a sampling program that meets the following conditions for the exclusion to be valid: (1) - Testing: Sample collections and analyses, including quality control (QC) procedures, must be performed according to methodologies described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication Number SW-846, as incorporated by reference in LAC 33:V.110.	

(1)(A) - Inorganic Testing: During the first 12 months of this exclusion, DuPont Dow must collect and analyze a monthly grab sample of the Dynawave Scrubber Effluent. DuPont Dow must report to the department the unit operating conditions and analytical data (reported in milligrams per liter) for chromium, nickel, and zinc, including quality control information. If the department and DuPont Dow concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(A), then DuPont Dow may replace the inorganic testing required in condition (1)(A) with the inorganic testing required in condition (1)(B). Condition (1)(A) shall remain effective until this concurrence is reached.
(1)(B) - Subsequent Inorganic Testing: Following concurrence by the department, DuPont Dow may substitute the following testing conditions for those in condition (1)(A). DuPont Dow must continue to monitor operating conditions and analyze samples representative of each year of operation. The samples must be grab samples from a randomly chosen operating day during the same month of operation as the previous year's sampling event. These annual representative grab samples must be analyzed for chromium, nickel, and zinc. DuPont Dow may, at its discretion, analyze any samples gathered more frequently to demonstrate that smaller batches of waste are nonhazardous.
(1)(C) - Organic Testing: During the first 30 days of this exclusion, DuPont Dow must collect a grab sample of the Dynawave Scrubber Effluent and analyze it for the organic constituents listed in condition (3)(B) below. After completing this initial sampling, DuPont Dow shall sample and analyze for the organic constituents listed in condition (3)(B) on an annual basis.
1)(D) - Dioxins and Furans Testing: During the first 30 days of this exclusion, DuPont Dow must collect a grab sample of the Dynawave Scrubber Effluent and analyze it for the dioxins and furans in condition (3)(C) below. After completing this initial sampling, DuPont Dow shall sample and analyze for the dioxins and furans in condition (3)(C) once every three years to commence three years after the initial sampling.
(2) - Waste Handling: Consequent to this exclusion, the Dynawave Scrubber Effluent becomes, on generation, nonhazardous solid waste and may be managed and disposed of on the DuPont Dow plant site in any one of three permitted underground deep injection wells. With prior written authorization from the department, alternative disposal methods may be either a Louisiana Pollution Discharge Elimination System/National Pollution Discharge Elimination System (LPDES/NPDES) permitted outfall or a permitted commercial underground deep injection well. This newly delisted waste must always be managed and disposed of in accordance with all applicable solid waste regulations. If constituent levels in any representative sample equal or exceed any of the delisting levels set in condition (3), the Dynawave Scrubber Effluent must be immediately resampled and reanalyzed for the constituent(s) that exceeded the delisting levels. If the repeat analysis is less than the delisting levels, then DuPont Dow shall resume the normal sampling and analysis schedule as described in condition (1). If the results of the reanalysis equal or exceed any of the delisting levels, then within 45 days DuPont Dow shall submit a report to the department that outlines the probable causes for exceeding the constituent level and exclusion of the Dynawave Scrubber Effluent shall remain in force unless the department notifies DuPont Dow in writing of a temporary rescission of the exclusion. Normal sampling and analysis shall continue through this period as long as the exclusion remains in force.
(3) - Delisting Levels: The following delisting levels have been determined safe by taking into account health-based criteria and limits of detection. Concentrations in conditions (3)(A) and (3)(B) must be measured in the extract from the samples by the method specified in LAC 33:V. 4903.E. Concentrations in the extract must be less than the following levels (all units are milligrams per liter):
(3)(A) - Inorganic Constituents: Chromium - 2.0; Nickel - 2.0; Zinc - 200.

(3)(B) - Organic Constituents:
 Acetone - 80; Chlorobenzene - 2.0; Chloroform - 0.2; Chloroprene - 14;
 Ethylbenzene - 14; recommends corrective action measures. The
 department shall determine the necessary corrective action and shall notify
 DuPont Dow of the corrective action needed. DuPont Dow shall implement
 the corrective action and resume sampling and analysis for the constituent
 per the schedule in condition (1). Within 30 days after receiving written
 notification, DuPont Dow may appeal the corrective action determined by
 the department. During the full period of corrective action determination
 and implementation, the Methylene Chloride - 0.1; Styrene - 2.0; Toluene -
 20; Xylenes - 200.

(3)(C) - Dioxins and Furans
 The 15 congeners listed in Section 1.1 of EPA Publication Number SW-846
 Method 8290 - Monitor only.

(4) - Changes in Operating Conditions or Feed Streams:
 If DuPont Dow either significantly changes the operating conditions
 specified in the petition or adds any previously unspecified feed streams and
 either of these actions would justify a Class 3 modification to their
 combustion permit, DuPont Dow must notify the department in writing.
 Following receipt of written acknowledgement by the department, DuPont
 Dow must collect a grab sample and analyze it for the full universe of
 constituents found in 40 CFR part 264, appendix IX - Ground Water
 Monitoring List (LAC 33:V.3325). If the results of the appendix IX analyses
 identify no new hazardous constituents, then DuPont Dow must reinstitute
 the testing required in condition (1)(A) for a minimum of 12 monthly
 operating periods. During the full period described in this condition, the
 delisting of the Dynawave Scrubber Effluent shall remain in force unless a
 new hazardous constituent is identified or the waste volume exceeds 25,000
 cubic yards per year; at this time the delisting petition shall be reopened.
 DuPont Dow may eliminate feeding any stream to the combustion unit at
 any time without affecting the delisting of the Dynawave Scrubber Effluent
 or the sampling schedule.

(5) - Data Submittal:
 DuPont Dow must notify the department in writing at least two weeks prior
 to initiating condition (1)(A). All data obtained to fulfill condition (1) must
 be submitted to the Assistant Secretary of the Office of Environmental
 Services, LDEQ, 7290 Bluebonnet Blvd, Baton Rouge, LA 70810, within
 60 days after each sampling event.

Records of operating conditions and analytical data from condition (1) must
 be compiled, summarized, and maintained on site for a minimum of three
 years. These records and data must be furnished upon request by the
 department and made available for inspection. Failure to submit the
 required data within the specified time period or failure to maintain the
 required records on-site for the specified time shall be considered by the
 department, at its discretion, sufficient basis to revoke the exclusion. All
 data must be accompanied by a signed copy of the following certification
 statement to attest to the truth and accuracy of the data submitted:

"I certify under penalty of law that I have personally examined and am
 familiar with the information submitted in this demonstration and all
 attached documents, and that, based on my inquiry of those individuals
 immediately responsible for obtaining the information, I believe that the
 submitted information is true, accurate, and complete. I am aware that there
 are significant penalties for submitting false information, including the
 possibility of fine and imprisonment. In the event that any of this
 information is determined by the department, in its sole discretion, to be
 false, inaccurate, or incomplete, and upon conveyance of this fact to the
 company, I recognize and agree that this exclusion of waste will be void as
 if it never had been in effect or to the extent directed by the department and
 that the company will be liable for any actions taken in contravention of the
 company's environmental obligations under the Louisiana Environmental
 Quality Act premised upon the company's reliance on the void exclusion."

* * *

[See Prior Text in Marathon Oil Co.]

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

HISTORICAL NOTE: Promulgated by the Department of
 Environmental Quality, Office of Solid and Hazardous Waste,
 Hazardous Waste Division, LR 20:1000 (September 1994),
 amended LR 21:944 (September 1995), LR 22:830 (September

1996), amended by the Office of Waste Services, Hazardous Waste
 Division, LR 23:952 (August 1997), amended by the Office of
 Environmental Assessment, Environmental Planning Division, LR
 25:

A public hearing will be held on September 27, 1999, at
 1:30 p.m. in the Trotter Building, Second Floor, 7290
 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested
 persons are invited to attend and submit oral comments on
 the proposed amendments. Should individuals with a
 disability need an accommodation in order to participate,
 contact Patsy Deaville at the address given below or at (225)
 765-0399.

All interested persons are invited to submit written
 comments on the proposed regulations. Commentors should
 reference this proposed regulation by HW068P. Such
 comments must be received no later than October 4, 1999, at
 4:30 p.m., and should be sent to Patsy Deaville, Regulation
 Development Section, Box 82178, Baton Rouge, LA 70884-
 2178 or to fax (225) 765-0486. Copies of this proposed
 regulation can be purchased at the above referenced address.
 Contact the Regulation Development Section at (225) 765-
 0399 for pricing information. Check or money order is
 required in advance for each copy of HW068P.

This proposed regulation is available for inspection at the
 following DEQ office locations from 8 a.m. until 4:30 p.m.:
 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA
 70810; 804 Thirty-first Street, Monroe, LA 71203; State
 Office Building, 1525 Fairfield Avenue, Shreveport, LA
 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501
 Chateau Boulevard, West Wing, Kenner, LA 70065; 100
 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104
 Lococo Drive, Raceland, LA 70394 or on the Internet at
<http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
 Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Lists of Hazardous Wastes

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

DuPont Dow Elastomers L.L.C. is requesting delisting of
 its Dynawave Scrubber Effluent. Approving or disapproving
 this delisting will not affect state agency staffing levels. There
 are no costs or savings associated with implementation of this
 rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The state will collect \$6,390/yr less in hazardous waste
 disposal tax revenue when the Dynawave Scrubber Effluent is
 delisted.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

DuPont Dow Elastomers L.L.C. will pay \$6,390/yr less in
 Hazardous Waste Disposal Tax but will pay approximately
 \$1,000/yr more in analytical lab costs. The result is a net saving

of \$5,390/yr for DuPont. The lab that performs DuPont Dow's testing will receive \$1,000/yr more because the delisting conditions require additional analytical testing. The delisting of this scrubber effluent will not relieve the company from any liability for these wastes under federal or state law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effects on competition and employment are negligible.

James H. Brent, Ph.D.
Assistant Secretary
9908#052

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Office of Elderly Affairs

GOEA Policy Manual Revision Subchapter A (LAC 4:VII.Chapter 11)

In accordance with Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend the GOEA Policy Manual effective November 20, 1999. The purpose of the proposed rule change is to update existing policies governing the Office of Elderly Affairs. This rule complies with R.S. 46:931 to R.S. 46:935, R.S. 14:403.2, R.S. 49:2010.4, R.S. 40:2802(D), Public Law 89-73 the Older Americans Act (OAA) of 1965 as amended, and 45 CFR 1321. The Louisiana Executive Board on Aging has had an opportunity to review and comment on these changes.

Preamble

Federal Regulations (45 CFR 1231.11) require GOEA to develop and enforce policies governing all aspects of programs operated under the Older Americans Act, whether operated directly by the State agency or under contract. R.S. 46:932 (8) requires GOEA to adopt and promulgate rules and regulations deemed necessary to implement the provisions of Chapter 7 of the Louisiana Revised Statutes. The policies, rules and regulations must be developed in consultation with other appropriate parties in the State. Accordingly, GOEA convened an ad hoc task force in October 1997. The task force is composed of individuals from throughout the State, representing area agencies on aging, parish councils on aging and other service providers. The task force's mission is to review proposed rule changes and recommend additional/alternative rules to enhance the development of service delivery systems for older Louisianans. To date, the Task Force has completed twenty-eight Sections of the GOEA Policy Manual.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

Subchapter A. Authority, Organization, Functions

§1101. Office of Elderly Affairs

A. Authority, Organization and Purpose

1. Chapter 7 of Title 46 of the Louisiana Revised Statutes of 1950 (R.S. 46:931 et seq.) provides for the establishment and administration of the Office of Elderly Affairs (GOEA) within the Office of the Governor.

2. Executive Order MJF 99-14 established and provided for the operation of the Office of Community Programs to consolidate the following agencies and/or divisions within the Office of the Governor that provide services for the citizens and local governments of the state of Louisiana:

- a. the Office of Elderly Affairs (R.S. 46:931, et seq.);
- b. the Office of Disability Affairs (R.S. 46:2581 et seq.);
- c. the Office of Indian Affairs (R.S. 46:2301, et seq.);
- d. the Office of Municipal Affairs;
- e. the Louisiana Interagency Coordinating Council for Child Net [R.S. 17:1979 and 36:4(R)];
- f. the Office of Rural Development (R.S. 3:314, et seq.);
- g. the Louisiana Abstinence Education Project (Executive Order No. MJF 98-11, as amended by Executive Order No. MJF 99-13);
- h. the Louisiana State Troops to Teachers Placement Assistance Program (Memorandum of Agreement dated February 2, 1995);
- i. the Office of Urban Affairs and Development (Executive Order No. MJF 96-47); and
- j. the Office of Women's Services (R.S. 46:2521, et seq.).

3. GOEA serves as the focal point for the development and administration of public policy regarding Louisiana's elderly citizens. GOEA is the sole State agency designated by the governor and the legislature to develop and administer the state plan on aging. GOEA also administers several statewide programs including the Long Term Care Assistance Program, the Adult Protective Services Program for the Elderly and the Long Term Care Ombudsman Program.

B. Powers and Responsibilities

1. GOEA has the following powers and duties under state law:
 - a. to administer the Older Americans Act and related programs;
 - b. to collect facts and statistics and make special studies of conditions pertaining to the employment, health, financial status, recreation, social adjustment or other conditions affecting the welfare of the aged;
 - c. to keep abreast of the latest developments in aging throughout the nation and to interpret such findings to the public;
 - d. to provide for a mutual exchange of ideas and information on the national, state, and local levels;
 - e. to conduct hearings and to subpoena witnesses;
 - f. to make recommendations to the governor and to the legislature for needed improvements and additional resources to promote the welfare of the aging in the state;
 - g. to coordinate the services of all agencies in the state serving the aging and require reports from such state agencies and institutions including carrying out the provisions of R.S. 46:935;
 - h. to adopt and promulgate rules and regulations deemed necessary to implement the provisions of the law in accordance with the Administrative Procedure Act;

i. to exercise the functions of the state relative to nutrition programs for the elderly and handicapped citizens of Louisiana;

j. to perform the functions of the state which are designed to meet the social and community needs of Louisiana residents sixty years of age or older, including but not limited to the provision of such comprehensive social programs as homemaker services, home repair and maintenance services, employment and training services, recreational and transportation services, counseling, information and referral services, protective services under R.S. 14:403.2, and health related outreach; but excluding the transportation program for the elderly administered by the Department of Transportation and Development under Section 16(b)(2) of the Federal Mass Transportation Act of 1964 as amended and other such programs and services assigned to departments of state government as provided in Title 36 of the Louisiana Revised Statutes;

k. to administer the Louisiana Senior Citizens Trust Fund;

l. to administer the Long Term Care Assistance Program;

m. to operate the Office of the State Long Term Care Ombudsman;

n. to serve as the "Adult Protection Agency" for any individual sixty years of age and over in need of adult protective services as provided in R.S. 14:403.2(E).

o. to administer all federal funds appropriated, allocated, or otherwise made available to the state for services to the elderly, whether by block grant or in any other form, with the exception of funds for programs administered by the Department of Social Services or the Department of Health and Hospitals, on August 15, 1995, and to distribute those funds in accordance with and consistent with R.S. 46:936;

p. to approve recommendations from any parish voluntary council on aging prior to the creation of a new state-funded senior center in the state, as provided in §1233 of this Manual; and

q. to provide meeting space and staff support for the Executive Board on Aging (R.S. 46:934(G)).

2. Strategic Planning

a. In accordance with R.S. 39:31, GOEA shall engage in strategic planning and produce a strategic plan to guide ongoing and proposed activities for five years, to be updated at least every three years. A schedule will be provided by the Commissioner of Administration with guidance for the timely preparation, revision and submission of strategic plans.

b. Content of the Strategic Plan:

i. mission statements for each program funded through GOEA;

ii. goals that reflect the expected results the agency plans to achieve on behalf of the elderly;

iii. objectives that support each goal;

iv. strategies that GOEA will use to achieve its objectives;

v. measurable performance indicators for each objective, including at a minimum, indicators of input, output, outcome, and efficiency;

vi. statements identifying the principal clients and users of each program; and

vii. potential external factors beyond the control of GOEA that could affect the achievement of goals and objectives.

c. Each goal shall have the statutory requirement of authority.

d. Program evaluations shall be used to develop objectives and strategies.

e. GOEA shall maintain documentation as to the reliability and appropriateness of each performance indicator and the method used to verify the performance indicators. GOEA shall also indicate how each performance indicator will be used in GOEA's management decisions.

f. The strategic plan shall be used in the construction of the annual operational plan for budget development purposes. Information taken from the strategic plan or operational plan for inclusion in the executive budget or supporting documents shall be included at the discretion of the Commissioner of Administration.

C. Functions of the Governor's Office of Elderly Affairs

1. Administrative Functions:

a. to develop and follow written policies in carrying out its functions under state and federal laws and regulations;

b. to develop and enforce policies governing all aspects of programs operating under the Older Americans Act, whether operated directly or under contract;

c. to manage and control funds received from federal and state sources;

d. to recruit, train and supervise qualified staff to perform responsibilities; and

e. to procure necessary supplies, equipment and services.

2. Advocacy Functions:

a. to review, monitor, evaluate and comment on all Federal, State and local plans, budgets, regulations, programs, laws, levies, hearings, policies, and actions which affect or may affect older individuals and recommend any changes in these which GOEA considers to be appropriate;

b. to provide technical assistance and training to agencies, organizations, associations or individuals representing older persons;

c. to review and comment, upon request, on applications to state and federal agencies for assistance in meeting the needs of the elderly;

d. to consolidate and coordinate multiple state and federal resources to facilitate the development of comprehensive community-based services for the elderly; and

e. to develop financial resources for programs on aging beyond those allocated under the Older Americans Act.

3. Service Systems Development Functions:

a. to develop and administer the state plan on aging;

b. to be primarily responsible for the planning, policy development, administration, coordination, priority setting and evaluation of all State activities related to the objectives of the Older Americans Act;

c. to divide the State into distinct planning and service areas, in accordance with guidelines issued by the Administration on Aging;

d. to designate for each planning and service area after consideration of the views offered by the unit or units

of general purpose local government in such area, a public or private nonprofit agency or organization as the area agency on aging (AAA) for such area;

e. in consultation with area agencies on aging, in accordance with guidelines issued by the Administration on Aging, and using the best available data, to develop and publish, for review and comment, a formula for distribution within the State of funds received under Title III of the Older Americans act that takes into account:

i. the geographical distribution of older individuals in the State; and

ii. the distribution among planning and service areas of older individuals with greatest economic need and/or greatest social need, with particular attention to low-income minority older individuals;

f. to submit its formula developed under §1105.C.6 to the Administration on Aging for approval; and

g. to establish and follow appropriate procedures to provide due process to affected parties, if the State agency initiates an action or proceeding to:

i. revoke the designation of the AAA under §1111.C.3.d;

ii. designate an additional planning and service area in the State;

iii. divide the State into different planning and service areas; or

iv. otherwise affect the boundaries of the planning and service areas in the State.

D. Governor's Office of Elderly Affairs Administration

1. Staffing

a. GOEA shall be administered by an executive director, who shall be recommended by the Louisiana Executive Board on Aging to the governor to serve at his pleasure, subject to confirmation by the Senate. The executive director shall be qualified by education and experience to assume leadership of the State Agency on Aging.

b. The GOEA executive director shall employ an adequate number of qualified staff to carry out the duties and functions of the State agency as provided by law.

c. GOEA shall have within the State agency an Office of the State Long-Term Care Ombudsman, with a full-time State ombudsman and such other staff as are appropriate.

d. GOEA shall provide an individual who shall be known as a State legal services developer, and other personnel, sufficient to ensure:

i. state leadership in securing and maintaining legal rights of older individuals;

ii. state capacity for coordinating the provision of legal assistance;

iii. state capacity to provide technical assistance, training, and other supportive functions to area agencies on aging, legal assistance providers, ombudsmen, and other persons as appropriate; and

iv. state capacity to promote financial management services for older individuals at risk of conservatorship.

e. GOEA may contract with other parties for the performance of certain functions and responsibilities.

f. Subject to the requirements of the Louisiana Department of Civil Service:

i. GOEA will give preference to persons aged sixty or over for any staff positions (full-time or part-time) for which such persons qualify; and

ii. GOEA shall give special consideration to individuals with formal training in the field of aging (including an educational specialty or emphasis in aging and a training degree or certificate in aging) or equivalent professional experience in the field of aging for any staff positions (full time or part time) for which such individuals qualify.

g. All GOEA personnel matters shall be governed by state law and the rules of the Louisiana Department of Civil Service.

2. Policies

a. GOEA shall develop and enforce written policies in carrying out its functions under state and federal laws and regulations. These policies shall be developed in consultation with other appropriate parties within the state. GOEA shall keep its policies current, and revise them as necessary in accordance with the Louisiana Administrative Procedure Act.

b. GOEA shall:

i. draft proposed policies and/or policy changes;

ii. submit proposed policies and/or policy changes to the Louisiana Executive Board on Aging for review and comment;

iii. publish proposed policies/policy changes in the Louisiana Register in order to solicit public input;

iv. conduct public hearings to obtain oral and/or written comments from interested parties; and

v. consider all comments in establishing final policies.

c. GOEA shall take into account, in connection with matters of general policy arising in the development and administration of the State plan, the views of recipients of supportive services or nutrition services, or individuals using multipurpose senior centers provided under such plan.

d. GOEA shall establish and maintain a manual to which shall include current policies promulgated by the State agency in the Louisiana Administrative Code. GOEA shall make copies of said manual available to all GOEA contractors and subcontractors. Copies may be provided at cost.

3. Reports

a. GOEA shall submit to the U.S. Administration on Aging, the governor, and the legislature any reports that they require.

b. GOEA shall establish and maintain administrative records and reports for its total operation to satisfy legal requirements and for use as a management tool.

c. Program records and reports shall be reviewed periodically by appropriate staff, to evaluate the records' adequacy and continued usefulness.

4. Confidentiality and Disclosure of State Agency Information

a. The Governor's Office of Elderly Affairs shall ensure that any agency providing services with funds administered by GOEA shall not disclose any information about or obtained from an older person, in a form which identifies the person, without his informed, written consent or that of his authorized representative.

b. All information related to problems identified in the process of monitoring and evaluating area agencies on aging and/or service providers shall be considered confidential information until such time as problems are resolved or final action is taken in accordance with GOEA policy. Such information may be disclosed to persons or organizations outside GOEA only if authorized by the executive director.

c. In the conduct of monitoring the ombudsman program, access to files, minus the identity of any complainant or resident of a long term care facility, shall be available only to the executive director of the Office of Elderly Affairs and one other senior manager of the Office of Elderly Affairs designated by the executive director for this purpose. The confidentiality protections concerning any complainant or resident of a long term care facility as prescribed in Section 307(a)(12) of the Older Americans Act shall be strictly observed.

d. Subject to the confidentiality requirements of this paragraph, the GOEA executive director will make available at reasonable times and places to all interested parties information and documents developed or received by GOEA in carrying out its responsibilities.

e. In administering the Elderly Protective Services Program, all information in case records regarding elderly victims of abuse, neglect and exploitation shall be confidential as outlined in R.S. 14:403.2(E)(8).

5. Program Monitoring

a. GOEA shall monitor the performance of all programs and activities initiated under the Older Americans Act for quality and effectiveness in order to:

i. identify performance problems as a basis for determining an area agency's need for technical assistance and training;

ii. measure an area agency's progress toward developing a comprehensive and coordinated service delivery system in the planning and service area (PSA), and to guide the GOEA in providing resources and technical support to enhance the development of such systems;

iii. to ensure compliance with applicable federal and state laws, regulations and other requirements; and

iv. to ensure cost-effective use of available resources for the elderly.

b. Performance Indicators:

i. extent to which proposed service output (as specified in the area plan) is being provided, including:

(a). number of persons served, by service;

(b). units of service provided; and

(c). expenditures by source and service;

ii. extent to which each objective, and tasks related thereto, were completed as compared to the area plan;

iii. extent to which AAA responsibilities and requirements are being carried out;

iv. extent to which required services are being provided;

v. extent to which federal and state laws, regulations and other requirements are being followed; and

vi. extent to which the AAA is fostering the development of a comprehensive and coordinated service delivery system in the PSA, including:

(a). encouraging the development by other agencies of access services, community services, in-home services, and services to residents of care providing facilities, beyond those funded by the AAA; and

(b). providing for service management mechanisms which link clients with appropriate services and permit ease of movement by clients from one type of care and provider to another, as necessary.

c. Monitoring Procedures:

i. review AAA program and fiscal reports relative to the performance indicators, and for the purposes stated in this paragraph;

ii. conduct on-site performance evaluations of each AAA;

iii. share the results of all monitoring activities with the AAA governing body and director along with:

(a). recommendations for correcting problems; and

(b). remedial actions the State agency will take to assist the AAA and actions which must be taken by the AAA, including time frame for completion of such actions.

6. Program Evaluation

a. Program evaluation is designed to measure the extent to which the operation of programs resulted in the lessening of need for service for older persons. It is intended to support decision-making by the state and area agencies in the areas of resource allocation to services and program design, by showing which service delivery models are effective and result in program outcomes which are consistent with the goals of the Older Americans Act.

b. GOEA may carry out its evaluation responsibilities through -- or in consultation with -- institutions of higher learning, or other organizations with demonstrated competence in the field of evaluation research. Priority will be given to the evaluation of new programs and services as a basis for modification, expansion or termination.

c. Termination or suspension of the area plan, withholding funds, or other punitive actions may be effected by GOEA if the AAA fails to take actions and correct problems specified by GOEA.

7. Resource Development

a. GOEA shall identify resources potentially available for services for the aging at the federal and state levels, and from both public and private sources.

b. GOEA shall prepare applications, or facilitate such preparation on the part of AAAs or others, to secure identified funds.

c. GOEA shall provide information for use in justifying the allocation of funds for programs on aging, by such sources.

8. Coordination

a. Because state and federal funds administered by GOEA support only a small fraction of services available for the aging, and since one of the primary purposes of GOEA is to foster coordination among the many disparate programs for the elderly, the following activities shall be carried out:

i. identification of programs administered at the national and state level which impact on the well-being of older persons;

ii. establishment and use of common service nomenclatures to facilitate interagency communication and analysis;

iii. collection and analysis of information about the types of services allowable and actually provided, eligible/actual clientele, location of service providers/recipients, sources and amounts of expenditures by service;

iv. participation in joint planning and program design efforts at the state level for the purpose of:

(a). sharing of facilities and equipment (e.g., school buildings, community centers, transportation vehicles, etc.);

(b). centralizing functions common to several delivery programs for the aging (e.g., case management, information and referral, long term care ombudsman activities, etc.);

(c). collocating services in support of AAA focal point development;

(d). developing consensus among as many agencies as possible on a continuum of needed services, the geographic locations for such services, and assigning service development and delivery responsibilities among agencies; and

(e). entering into cooperative written agreements with the Louisiana Department of Health and Hospitals for the administration of the Adult Protective Services Program pursuant to R.S. 14:403.2, and with agencies administering Title XIX and Title XX of the Social Security Act, state transportation agencies, foundations, United Way agencies, and other private organizations for the purpose of carrying out these activities, and supplying copies of these interagency agreements to area agencies.

b. To carry out its responsibility to develop a comprehensive and coordinated service delivery system, GOEA shall make special efforts to coordinate with agencies administering the following programs:

i. the Job Training Partnership Act;

ii. Title II of the Domestic Volunteer Service Act of 1973;

iii. Titles XVI, XVIII, XIX, and XX of the Social Security Act;

iv. Sections 231 and 232 of the National Housing Act;

v. The United States Housing Act of 1937;

vi. Section 202 of the Housing Act of 1959;

vii. Title I of the Housing and Community Development Act of 1974;

viii. Title I of the Higher Education Act of 1965 and the Adult Education Act;

ix. Sections 3, 9, and 16 of the Urban Mass Transportation Act of 1964;

x. the Public Health Service Act including block grants under Title XIX of such Act;

xi. the Low-Income Home Energy Assistance Act of 1981;

xii. Part A of the Energy Conservation in Existing Buildings Act of 1976, relating to weatherization assistance for low income persons;

xiii. the Community Services Block Grant Act;

xiv. demographic statistics and analysis programs conducted by the Bureau of the Census under Title 13, United States Code;

xv. the Rehabilitation Act of 1973;

xvi. the Developmental Disabilities and Bill of Rights Act; and

xvii. the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, established under Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750-3766(b)).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931 to R.S. 46:935, R.S. 14:403.2, OAA Sections 203, 305, 307 and 731, and 45 CFR 1321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:

§1103. The Louisiana Executive Board on Aging

A. Composition, Appointment and Tenure

1. The Louisiana Executive Board on Aging, hereafter referred to as "the board," shall consist of fifteen members appointed as follows:

a. the President of the Senate shall appoint five members, one from each of the five districts of the Public Service Commission;

b. the Speaker of the House shall appoint five members of Representatives, one from each of the five districts of the Public Service Commission; and

c. the governor shall appoint five members, one from each of the five districts of the Public Service Commission. Each appointment by the governor shall be submitted to the Senate for confirmation.

2. Qualifications

a. Members of the board shall have a recognized interest in and knowledge of the problems of aging. None of the members of the board shall be elected officials or paid employees of the state of Louisiana. Preference shall be given to persons sixty years of age and older.

b. A person is not eligible for appointment to the board if the person or the person's spouse either:

i. is employed by a business entity or other organization regulated by or receiving funds from GOEA; or

ii. owns, controls, or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving funds from GOEA.

3. Nominations and Appointments

a. Nominations for the board shall be solicited from:

i. the Louisiana Association of Councils on Aging, the Louisiana State Medical Society;

ii. the Louisiana State Bar Association;

iii. the National Association of Social Workers - Louisiana Chapter;

iv. the American Association of Retired Persons;

v. the Louisiana Association of Business and Industry;

vi. the AFL-CIO;

vii. the Louisiana Geriatric Education Center;

viii. the Louisiana Interchurch Conference; and

ix. other entities as appropriate.

b. Appointments shall be made from the list of names submitted in accordance with §1111.A.3.

4. Terms of Office

a. The terms of office of members of the board shall be five years except that the appointing authority shall appoint the original members as follows:

- i. five members for a term of one year;
- ii. five members for a term of two years; and
- iii. five members for a term of three years.

b. Vacancies shall be filled by appointment by the governor only for the remainder of the unexpired terms.

B. Functions of the Louisiana Executive Board on Aging

1. To advise and report to the GOEA executive director on matters of general importance and relevance to the planning, monitoring, coordination, and delivery of services to the elderly in Louisiana.

2. To advise the GOEA executive director on matters of policy and on all rules and regulations promulgated by the office.

3. To review and recommend the revocation of the charter of any parish voluntary council on aging for noncompliance with law, policies and/or regulations.

C. Organization of the Board

1. The board shall meet and organize immediately after appointment of the members and shall elect from its membership a slate of officers other than chairperson, whom the governor shall appoint. The board shall elect any officers, other than the chairperson, it deems necessary. The duties of such officers shall be those customarily performed by such officers.

2. The board shall meet at least once per quarter of the fiscal year, and as often thereafter as deemed necessary by the chairperson. A majority of members of the board shall constitute a quorum.

3. The board shall adopt rules for the transaction of its business and shall keep a record of its resolutions, transactions, findings, and determinations.

D. Duties and Responsibilities

1. The board shall adopt rules governing the functions of the Governor's Office of Elderly Affairs (GOEA), including rules that prescribe the policies and procedures followed by the board and GOEA in the administration of its programs, all in accordance with the Administrative Procedure Act.

2. The board shall review and make recommendations to the GOEA executive director on matters of general importance and relevance to the planning, monitoring, coordination, and delivery of services to the elderly of the state.

3. The board shall approve matters of policy and all rules and regulations promulgated by the board or GOEA which pertain to elderly affairs and voluntary parish councils on aging.

4. The board shall prepare and submit an annual report to the legislature and to the governor sixty days prior to the legislative session.

5. The board by rule or its order may delegate any portion of its rights, powers, and duties to the executive director of the office.

6. The board may recommend discharge of the GOEA executive director.

E. Compensation

1. Members shall serve without salary, but shall be reimbursed at the established per diem rate for attendance at board and committee meetings.

2. Members shall be reimbursed for actual travel and other expenses incurred while in the performance of their duties in accordance with the division of administration regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932, R.S. 46:935 and OAA Sections 305(a)(1) and 307(a)(11).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:

§1105. State Plan on Aging

A. Definition

The state plan on aging is the document submitted to the Administration on Aging to obtain the State's allotment of federal funds allocated under the Older Americans Act of 1965, as amended. It identifies the actions which the Governor's Office of Elderly Affairs (GOEA) will take in carrying out federal and state responsibilities. GOEA shall not make expenditures under a new plan or amendment requiring approval until it is approved.

B. Content of the State Plan

1. Identification by the State of the sole State agency that has been designated to develop and administer the plan;

2. Statewide program objectives to implement the requirements under Title III and Title VII of the Older Americans Act and any objectives established by the Administration on Aging through the rulemaking process;

3. A resource allocation plan indicating the proposed use of all Title III funds administered by GOEA, and the distribution of Title III funds to each planning and service area;

4. Identification of geographic boundaries of each planning and service area and of area agencies designated for each planning and service area;

5. Provision of prior Federal fiscal year information related to low income minority and rural older individuals as required by Section 307 of the Older Americans Act; and

6. Each of the provisions and assurances required in Sections 305 and 307 of the Older Americans Act, and provisions that the State meets the requirements under 45 CFR Part 1321.

C. Development and Amendment of the State Plan

1. The state plan may be developed for a two-, three-, or four-year period, determined by the State agency, with such annual updates and/or amendments as are necessary. GOEA shall use its own judgement as to the format to use for the plan, and how to collect information for the plan. The plan's resource allocation, including allotments to area agencies, shall be prepared annually and as available allotments change.

2. In the process of developing the state plan, GOEA shall reevaluate the configuration of planning and service areas (PSAs) in the state. Applications for PSA designation will be accepted in accordance with §1107.A.2 of this manual at that time.

3. GOEA shall amend the state plan whenever necessary to reflect:

- a. new or revised Federal statutes or regulations;

b. a material change in any law, organization, policy or State agency operation, or;

c. information required annually by the Older Americans Act.

4. GOEA shall promulgate the state plan and all amendments in the Louisiana Administrative Code in accordance with the Administrative Procedure Act.

5. GOEA shall submit the state plan and all amendments requiring approval to the Administration on Aging.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931, R.S. 49:432, OAA Section 203(b), OAA Section 307, OAA Section 731, and 45 CFR 1321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:

§1107. Planning and Service Area Designation

A. General Rules

1. In accordance with Section 305 of the Older Americans Act (the Act), GOEA shall divide the State into distinct planning and service areas (PSAs) after considering the geographical distribution of individuals aged sixty and older in the State; the incidence of the need for supportive services, nutrition services, multipurpose senior centers, and legal assistance; the distribution of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such areas; the distribution of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such areas; the distribution of older Indians residing in such areas; the distribution of resources available to provide such services or centers; the boundaries of existing areas within the State that were drawn for the planning or administration of supportive service programs; the location of units of general purpose local government within the State; and any other relevant factors.

2. Starting with the state plan on aging beginning October 1, 2002, GOEA shall accept applications for PSA designation received from eligible applicants on or before November 1 of the year immediately preceding the final year of the state plan period. Any designation so approved shall become effective on the first day of the next area plan and shall remain in effect throughout the duration of the approved area plan.

3. GOEA may include in any planning and service area such additional areas adjacent to the unit of general purpose local government, region, metropolitan area, or Indian reservation so designated as GOEA determines to be necessary for, and will enhance the effective administration of the programs authorized by Title III of the Older Americans Act.

4. GOEA may include the area covered by the appropriate economic development district involved in any planning and service area designated and may include all portions of an Indian reservation within a single planning and service area.

B. Eligible Applicants

The governing body of any unit of general purpose local government, region within the State recognized for areawide planning, metropolitan area, or Indian reservation may apply for its geographical area of jurisdiction to be a designated planning and service area.

C. Application Procedure for PSA Designation

1. Eligible applicants requesting PSA designation shall submit applications based upon a uniform format prescribed by GOEA. Each such application shall include:

a. a signed resolution by the governing body of the applicant organization authorizing the request for designation of the unit of general purpose local government, region within the State recognized for areawide planning, metropolitan area, or Indian reservation as a planning and service area;

b. a narrative and statistical description of:

i. the number of individuals aged sixty and older in the proposed PSA;

ii. the number of older individuals who have the greatest economic need (including low-income minority individuals) residing in the proposed PSA;

iii. the number of older individuals who have the greatest social need (including low-income minority individuals) residing in the proposed PSA;

iv. the number of older individuals who are Indians residing in the proposed PSA;

c. the incidence of need for supportive services, nutrition services, multipurpose senior centers, and legal assistance in the proposed PSA;

d. the distribution of resources available to provide such services or centers in the proposed PSA;

e. the boundaries of existing areas within the proposed PSA drawn for the planning or administration of supportive and/or nutrition services programs;

f. the location of units of general purpose local government within the proposed PSA; and

g. a list of multipurpose senior centers and agencies providing supportive and/or nutrition services in the proposed PSA including services supported by Title III of the Older Americans Act.

2. If the proposed PSA's boundaries are either a combination or subdivision of existing planning and service areas, the application shall address the basis of need for the merger or separation.

3. Applications from units of general purpose local government shall include a statement of whether the unit desires to exercise the right to first refusal of an area agency on aging designation. If the unit chooses not to exercise this right, the application shall include a statement of preference for another agency or organization to be the designated area agency on aging for the proposed PSA.

4. Applications for PSA designation shall be signed by the chief elected official representing the unit of general purpose local government, region within the State recognized for areawide planning, metropolitan area, or Indian reservation.

D. Criteria for Approval of PSA Designation Applications

1. The application must be received by GOEA within the time frame prescribed in §1107.A.2.

2. The application must be completed, including all required documentation and signatures. Incomplete applications may be returned and refused for reconsideration at the discretion of the GOEA executive director.

3. The application must clearly demonstrate that the designation of the proposed PSA is necessary for, and will

enhance, the effective administration of the programs authorized by Title III of the Older Americans Act.

E. Procedure for Due Process to Affected Parties

1. GOEA shall approve or disapprove any application received under §1107.C.1.

2. Any applicant under §1107.B whose application for designation as a PSA is denied by GOEA may appeal the denial under the procedures specified in LAC 4:VII.1269.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:

§1109. Area Agency on Aging Designation

A. General Rules

1. The Governor's Office of Elderly Affairs (GOEA) shall designate a public or private nonprofit agency or organization as the area agency on aging (AAA) for each planning and service area (PSA) after consideration of the views offered by the unit or units of general purpose local government in each such PSA.

2. GOEA shall not designate any regional or local office of the State as an AAA.

3. Whenever GOEA designates a new AAA, GOEA shall give the right of first refusal to a unit of general purpose local government if such unit can meet the requirements of Sec. 305 (c) of the Older Americans Act and the boundaries of such a unit and the boundaries of the PSA are reasonably contiguous.

4. If the unit of general purpose local government chooses not to exercise the right of first refusal, GOEA shall publicly solicit applications for designation as an area agency on aging and shall give preference to an established office on aging as defined in §1109.B.1.a.

5. GOEA shall take into account the views of recipients of supportive services or nutrition services, or individuals using multipurpose senior centers provided under the state plan when designating AAAs.

B. Eligible Applicants for AAA Designation

1. Any of the following may apply for designation as an AAA:

a. an established office on aging which is operating within the PSA. The term "established office on aging" means a public or private nonprofit agency/organization that has functioned for at least one year for the purpose of planning, developing or administering aging service programs. The agency/organization must be capable of functioning effectively throughout the PSA designated by GOEA.

b. any office or agency of a unit of general purpose local government, which is designated to function only for the purpose of serving as an AAA by the chief elected official of such unit;

c. any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act only in behalf of such combination for the purpose of serving as an AAA;

d. any other public or private nonprofit agency in a PSA, or any separate organizational unit within such agency, which is under GOEA's supervision or direction for this

purpose and which can and will engage only in the planning or provision of a broad range of supportive services, or nutrition services within such PSA.

C. Application Procedure for AAA Designation

1. Eligible Applicants for AAA designation shall submit a written application in the format prescribed by GOEA.

2. Applications for AAA designation shall include:

a. the legal basis upon which the agency is organized;

b. a list of members serving on the governing body and the agencies/organizations they represent;

c. a copy of the agency's most recent audit;

d. a copy of the agency's current approved financial plan;

e. an organizational chart depicting the manner in which the agency's staff will be divided to fulfill its AAA responsibilities;

f. job descriptions reflecting the proposed AAA's intent to carry out the advocacy, planning, coordination, inter-agency linkages, information sharing, brokering, monitoring and evaluation functions;

g. assurances that the agency, once designated, shall provide for an adequate and qualified staff to perform all of the AAA functions prescribed in the Older Americans Act; and

h. such other information as GOEA deems necessary.

D. Criteria for Approval of Applications for AAA Designation

1. The application must be submitted in a timely manner, including all required documentation. Incomplete applications may be returned and refused for reconsideration at the discretion of the GOEA executive director.

2. The agency applying for AAA designation shall provide an opportunity for on-site review and assessment by GOEA to ensure that said organization has the capacity to perform the functions of an AAA.

3. Applications must demonstrate that the agency, if designated, will have the ability to fulfill the mission of an AAA.

E. Procedure for Due Process to Affected Parties

1. GOEA shall approve or disapprove any application received under §1109.C.1.

2. Any applicant under §1109.B whose application for designation as an AAA is denied by GOEA may appeal the denial under the procedures specified in LAC 4:VII.1267.

F. Duration of AAA Designation

The designated AAA shall function in that capacity for the duration of the area plan unless the AAA informs GOEA that it no longer wishes to carry out the responsibilities of an AAA or GOEA withdraws the designation as provided in §1109.G.

G. Withdrawal of AAA Designation

1. The Governor's Office of Elderly Affairs shall withdraw the AAA designation whenever GOEA, after reasonable notice and opportunity for a hearing, finds that:

a. the AAA does not meet the requirements of 45 CFR 1321; or

b. the plan or plan amendment is not approved; or

c. there is substantial failure in the provisions or administration of an approved area plan to comply with any provision of 45 CFR 1321 or the GOEA Policy Manual; or

d. activities of the AAA are inconsistent with the statutory mission prescribed in the Act or in conflict with the requirement that it function only as an AAA.

2. If GOEA withdraws the AAA's designation, it shall:

a. provide a plan for the continuity of AAA functions and services in the affected planning and service area; and

b. designate a new AAA in a timely manner.

3. If necessary to ensure continuity of service in a planning and service area, GOEA may, for a period up to 180 days after its final decision to withdraw the designation of an AAA:

a. perform the responsibilities of the AAA; or

b. assign the responsibilities of the AAA to another agency in the planning and service area.

4. The Assistant Secretary of the Administration on Aging may extend the 180-day period if GOEA:

a. notifies the Assistant Secretary in writing of its action;

b. requests an extension; and

c. demonstrates to the satisfaction of the Assistant Secretary a need for the extension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932, R.S. 46:935 and OAA Section 305(a)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:

§1111. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931, R.S. 49:432, OAA Section 203(b), OAA Section 307, 45 CFR 1321.11, 45 CFR 1321.17, 45 CFR 1321.19, and 45 CFR 1321.21.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 14:791 (November 1988), LR 17:57 (January 1991), repealed LR 25:

Subchapter C. Councils on Aging

§1265. General Hearing Provisions

A. Purpose

The Governor's Office of Elderly Affairs (GOEA) shall provide the opportunity for a hearing, on request, to area agencies on aging submitting plans under Title III of the Older Americans Act, to any provider of a service under such a plan, or to any applicant to provide a service under such a plan; and to any unit of general purpose local government, region within the state recognized for area wide planning, metropolitan area, or Indian reservation that applies for designation as a planning and service area when GOEA initiates certain types of action or proceedings. This Section specifies the timing and procedures for the hearings.

B. Definitions

Act is the Older Americans Act (42 United States Code Section 3001 et seq.).

Administration on Aging an agency of the U.S. Department of Health and Human Services, Office of Human Development Services. It is the Federal focal point and advocate for older persons and their concerns.

Area Agency on Aging is the agency designated by the Governor's Office of Elderly Affairs in a planning and service area to develop and administer the area plan for a

comprehensive and coordinated system of services for older persons.

Area Plan is the document submitted by an area agency to the Governor's Office of Elderly Affairs in order to receive contracts from the Governor's Office of Elderly Affairs.

Assistant Secretary for Aging the head of the Administration on Aging.

Contract is an award of financial assistance by the Governor's Office of Elderly Affairs to an eligible recipient.

Director is the director of the Governor's Office of Elderly Affairs.

Governor's Office of Elderly Affairs is the single state agency designated to develop and administer the state plan and be the focal point on aging in the State of Louisiana.

Hearing Examiner is an impartial person designated to preside at the hearing and render a proposed final decision.

Interested Person is any person who has a justifiable and clearly identifiable interest in the decision being appealed.

Party is any petitioner or the area agency or the Governor's Office of Elderly Affairs which proposed or decided the action being appealed.

Person is an individual, partnership, corporation, association, governmental agency or subdivision, or public or private organization of any character.

Petitioner is any person who has a right to a hearing under these rules and has filed a written request for a hearing.

Planning and Service Area is a geographic area of the state that is designated by the State Agency for the purpose of planning, development, delivery, and overall administration of services under an area plan.

Service Provider is an entity that is awarded a subcontract from an area agency to provide services under the area plan.

State Agency is the single state agency designated to develop and administer the state plan and to be the focal point on aging in the state.

C. General Procedures for Hearing

1. Decisions Unresolved on Effective Date of These Rules. These rules shall be applicable to all cases involving actions in which the petitioner has filed a request for hearing within 30 days of the receipt of the notice of such action, and a hearing has not yet been held or informal disposition or arrangements made as specified in §1265.C.4.

2. Computation of Time. In computing any record of time prescribed by these rules, or by any applicable statute, the period shall begin on the day after the event or act cited in the rule or statute and conclude on the last day of the computed period, unless the last day be a Saturday, Sunday, or a legal holiday, in which case the period concludes on the next day which is neither a Saturday, Sunday, nor a legal holiday.

3. Representation of Petitioner. Any party may be assisted by an attorney at law authorized to practice law before the Supreme Court of the State of Louisiana. Any party may appear personally or be represented by an employee or officer, or other person authorized by the party to represent the party.

4. Informal Disposition. Informal disposition or arrangements may be made of any matters under these rules

by written agreement between petitioner and the area agency or the Governor's Office of Elderly Affairs proposing or deciding the action that resolves the issue(s) that led to the hearing.

D. Incorporation of Administrative Procedure Act. There is hereby incorporated as a part of these rules, to the extent same be applicable and pertinent, the provisions of LA R.S. 49:951 et seq., the Louisiana Administrative Procedure Act, as amended.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(b)(1), Section 307(a)(5) and 45 CFR 1321.43(e).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), amended LR 25:

§1267. Hearing Procedures for Area Agencies

A. Purpose. The purpose of this Section is to establish procedures that Governor's Office of Elderly Affairs (GOEA) will follow to provide due process to affected AAAs whenever GOEA initiates particular types of action or proceedings.

B. Right to a Hearing. GOEA shall provide affected AAAs reasonable notice and opportunity for a hearing whenever GOEA initiates an action or proceeding to:

1. revoke the designation of an AAA;
2. designate an additional planning and service area in the State;
3. divide the State into different planning and service areas; or
4. otherwise affect the boundaries of the planning and service areas in the State.

C. Notice of Proposed Action

1. The Governor's Office of Elderly Affairs shall issue a written notice to the area agency which shall include:

- a. a statement of the proposed action;
- b. a short and plain statement of the reasons for the proposed action and the evidence on which the proposed action is based; and
- c. a reference to the particular sections of statutes, regulations, and rules involved.

2. The notice shall be sent by registered or certified mail, return receipt requested.

D. Request for Hearing

1. The request for hearing must be received by the Governor's Office of Elderly Affairs within 30 days following petitioner's receipt of the notice of the proposed action.

2. A request for hearing must be in writing and must state with specificity the grounds upon which the proposed action is appealed and all grounds upon which petitioner refutes the basis of the proposed action. The request must include:

- a. the dates of all relevant actions;
- b. the names of individuals or organizations involved in the proposed action;
- c. a specific statement of any section of the act or regulations believed to have been violated;
- d. a certified copy of the minutes or resolution in which petitioner's governing body requests a hearing and authorizes a person or persons to act in behalf of the agency or organization. The minutes or resolution shall indicate adoption by a majority of the quorum of the governing body of the agency or organization; and

e. a request for a transcript of the hearing, if desired.

E. Notice of Hearing

1. Upon receipt of a request for hearing the director shall, within 10 days, set a date for the hearing.

2. The Governor's Office of Elderly Affairs shall issue a written notice to the petitioner and interested persons which shall include:

- a. a statement of time, date, and location of the hearing;
- b. a statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. a reference to the particular sections of statutes, regulations, and rules involved; and
- d. a short and plain statement of the reasons for the proposed action that is being appealed and the evidence on which the proposed action is based.

3. Petitioner and other parties shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

F. Hearing Examiner. The director or his designated representative shall be the hearing examiner and preside at the hearing subject to the provisions of LA R.S. 49:960. The hearing examiner shall have authority to administer oaths, rule on motions and the admissibility of evidence, to recess any hearing from time to time, and rule on such other procedural motions as may be presented by the Governor's Office of Elderly Affairs or petitioner.

G. Rules of Evidence

1. In hearings, under these rules, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the district courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objection to evidentiary offers may be made and shall be noted in the record.

2. Documentary evidence may be received by the hearing examiner in the form of a copy or excerpt if the original is not readily available. On request, either party shall be given an opportunity to compare the copy with the original.

3. If a hearing will be expedited and the interests of parties will not be prejudiced substantially, any part of the evidence may be received in written form or the parties may stipulate as to facts or circumstances or summarize same.

4. Either party may conduct cross-examination required for a full and true disclosure of the facts.

5. Official notice may be taken by the hearing examiner of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of the Governor's Office of Elderly Affairs specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data; and afforded an opportunity to contest the material so noticed. The special skills or knowledge of the Governor's Office of Elderly Affairs and its staff may be utilized in evaluating the evidence.

6. Formal exceptions to rulings of the hearing examiner during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the hearing examiner, the action desired. When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review. The hearing examiner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof.

H. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or their representatives shall be governed by LA R.S. 49:960.

I. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956(5)-(8).

J. Hearing

1. Petitioner shall open and present its evidence to establish its position on the matters involved. Interested persons shall follow and present their evidence; then the Governor's Office of Elderly Affairs shall present its evidence. Petitioner may thereafter present rebuttal evidence only, such evidence to be confined to issues raised in petitioner's opening presentation and Governor's Office of Elderly Affairs following presentation or that of others. Petitioner shall be given the opportunity to offer final argument, but no additional presentation of evidence.

2. The hearing shall be completed within 120 days of the date the request for hearing was received.

K. Transcript. The proceedings of the hearing shall be transcribed on request of any party or person. The cost of transcription will be borne by the person requesting the transcript, unless otherwise provided by law. The Governor's Office of Elderly Affairs may require a deposit in the form of a certified check or cashier's check in an amount reasonably determined by the Governor's Office of Elderly Affairs to be adequate to cover all costs of transcription. In the event that transcription is not requested, the Governor's Office of Elderly Affairs, at its option, may produce a summary record of the proceedings of the hearing; provided that if such a summary record is produced by Governor's Office of Elderly Affairs, it shall provide the area agency with notice of the fact that such summary record was prepared and with the opportunity to copy or inspect same.

L. Final Decision

1. All final decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. The area agency shall comply with the final decision. A copy of the decision shall be sent immediately to the parties by registered or certified mail, return receipt requested.

2. Procedures for rehearing and appeal shall be governed by R.S. 49:959 and 965.

M. Record. The record in a hearing under these rules includes:

1. all pleadings, motions, and intermediate rulings;
2. evidence received or considered, or a resume thereof if not transcribed, except matters so obvious that a statement of them would serve no useful purpose;

3. a statement of matters officially noted;
4. offers of proof, objections and rulings on them;
5. proposed findings and exceptions; and
6. any decision, opinion, or report by the hearing examiner presiding at the hearing.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 25:

§1269. Hearing Procedures for Applicants for Planning and Service Area Designation

A. Purpose. The Governor's Office of Elderly Affairs is required to provide an opportunity for a hearing to any qualified applicant for designation as a planning and service area (PSA) whose application is denied by the Governor's Office of Elderly Affairs.

B. Right to a Hearing. The Governor's Office of Elderly Affairs shall provide an opportunity for a hearing, and issue a written decision to any unit of general purpose local government; region within the state recognized for purposes of areawide planning which includes one or more such units of general purpose local government; metropolitan area; or Indian reservation whose application for designation as a planning and service area is denied.

C. Request for Hearing

1. The request for a hearing must be received by the Governor's Office of Elderly Affairs within 30 days following petitioner's receipt of the notice of the adverse decision.

2. A request for hearing must be in writing and must state with specificity the grounds upon which the Governor's Office of Elderly Affairs decision is appealed and all grounds upon which petitioner refutes the basis of the adverse decision. The request must include:

- a. the dates of all relevant actions;
- b. the names of individuals or organizations involved in the action;
- c. a specific statement of any section of the act or regulations believed to have been violated;
- d. a certified copy of the minutes or resolution in which the applicant's governing body requests a hearing and authorizes a person or persons to act in behalf of the agency or organization. The minutes or resolution shall indicate adoption by a majority of a quorum of the governing body of the agency or organization; and
- e. a request for a transcript of hearing, if desired.

3. Petitioners shall be given no less than ten days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

D. Notice of Hearing

1. Upon receipt of a request for hearing, the director shall, within 10 days, set a date for the hearing.

2. The Governor's Office of Elderly Affairs shall issue a written notice to the petitioner, which shall include:

- a. a statement of time, date, location, and nature of the hearing;
- b. a statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. a reference to the particular section of statutes, regulations, and rules involved; and

d. a short and plain statement of the reasons for the decision that is being appealed and the evidence on which the decision was based.

3. If the Governor's Office of Elderly Affairs is unable to state in detail the evidence and reasons for the decision at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, a more definite and detailed statement shall be furnished not less than three days prior to the date set for the hearing.

4. Petitioner shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

E. Hearing Examiner. The director or his designated representative shall be the hearing examiner and preside at the hearing, subject to the provisions of LA R.S. 49:960. The hearing examiner shall conduct the hearing in an orderly fashion and in accordance with the procedures outlined herein. It is the responsibility of the hearing examiner to fully consider information relevant to the complaint and draft a fair decision based on such information.

F. Rules of Evidence. The rules of evidence for hearings held under §1269 of this manual shall be as provided in §1267.G.

G. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or his representative shall be governed by LA R.S. 49:960, the Louisiana Administrative Procedure Act.

H. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956 (5)-(8) of the Louisiana Administrative Procedure Act.

I. Hearing. The procedure to be followed for hearings held under §1269 shall be as provided in §1267.J.

J. Transcript. The rules governing transcripts for hearings held under §1269 shall be as provided in §1267.J.

K. Final Decision. All decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. A copy of the decision shall be sent immediately to the applicant by registered or certified mail, return receipt requested.

L. Rehearing. Procedures for rehearings shall be governed by LA R.S. 49:959.

M. Record. The record in a hearing under this Section shall consist of the materials listed in §1267.M.

N. Appeal to Assistant Secretary for Aging. Any eligible applicant for PSA designation, whose application has been denied, and who has been provided a written decision by the GOEA, may appeal the denial to the c Assistant Secretary for Aging in writing within thirty days following receipt of the State agency's decision. Such appeal shall be governed by the procedures outlined in the federal regulations issued by the Assistant Secretary for Aging.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(b)(1), (4), and 45 CFR 1321.47.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 25:

Written comments may be addressed to Betty N. Johnson, HCBS Director, Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374. A public hearing on this proposed rule will be held on September 28, 1999 at 625 North Fourth Street, State Mineral Board Hearing Room, Baton Rouge, LA 70802 at 10 a.m. All interested parties will

be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Written comments will be accepted until 5 p.m. September 28, 1999.

P.F. "Pete" Arceneaux, Jr.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: GOEA Policy Manual
Revision—Subchapter A**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that there will be no implementation costs or savings to state governmental units as a result of the proposed rule. There could be additional costs to local governmental units; however, the exact amount, if any, is unknown. The proposed rule will allow local governmental units to apply for planning and service area (PSA) designation and afford them the right to first refusal for area agency on aging (AAA) designation. Local governmental units requesting PSA designation will be required to submit written applications to the Governor's Office of Elderly Affairs (GOEA) and will incur the associated costs. PSA designated local governmental units receiving AAA designation will be required to develop and administer an area plan on aging and will incur the associated costs. Ten percent (10%) of Older Americans Act Title III funds allocated to an AAA may be expended for administrative costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that there will be no effect on revenue collections of state governmental units. There could be an increase in revenue collections of local governmental units; however, the exact amount, if any, is unknown. Older Americans Act (OAA) Title III funds are allocated among the PSAs by an intrastate funding formula based upon the geographical distribution of older individuals in the State and among PSAs with the greatest economic and social needs. Local governmental units of newly designated PSAs will have the right to first refusal for AAA designation. If the AAA designation is awarded by GOEA, they will receive OAA Title III funding to develop and administer an area plan on aging.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Directly affected persons or non-governmental groups that appeal decisions of GOEA or a designated area agency on aging will incur administrative costs associated with the appeals process. These costs will vary and cannot be determined at this time.

Members of the Louisiana Executive Board on Aging shall serve without salary, but shall be reimbursed at the established per diem rate for attendance at board and committee meetings. Members shall be reimbursed for actual travel and other expenses incurred while in the performance of their duties in accordance with the division of administration regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Although non-profit agencies are not in competition with each other, there is competition for funding. In a PSA in which the local governmental unit becomes a designated AAA, non-profit agencies will not be able to apply for the AAA designation. Further, OAA Title III funds for supportive and nutrition services are administered by designated AAAs. The AAAs are required to procure services for persons age 60 and over through a competitive process. They must advertise the

availability of funds and solicit proposals from service providers for supportive and nutrition services. Both profit and non-profit agencies will be able to compete for subcontracts with AAAs to provide direct services under Title III of the OAA.

P.F. "Pete" Arceneaux, Jr. Robert E. Hosse
Executive Director General Government Section Director
9908#043 Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Veterans Affairs**

Members and Travel (LAC 4:VII.905 and 911)

In accordance with Act 268 of the 1999 Regular Legislative Session, the Louisiana Department of Veterans Affairs advertises its intent to amend LAC 4.VII.905.A and delete §911.B, pertaining to payment of per diem and traveling expenses for members of the Veterans' Affairs Commission.

**Title 4
ADMINISTRATION
Part VII. Governor's Office
Chapter 9. Veterans' Affairs
Subchapter A. Veterans' Affairs Commission
§905. Members**

A. Each member shall be paid \$75 each day devoted to the work of the commission, but not more than \$1500 in any one fiscal year.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:486 (October 1981), amended LR 20:48 (January 1994), amended LR 25:

§911. Travel

A. Travel will only be authorized on days that per diem is paid, unless prior approval is granted by the chairman or his designated representative. Travel must be for official state business.

B. All travel vouchers for the commission members shall be authorized by the chairman or his designated representative, the director of the Office of Veterans Affairs, with ultimate responsibility held by the chairman, in accordance with adopted rules relating to travel.

C. The director, as secretary of the commission, shall keep the chairman and all members of the commission apprised of the availability or nonavailability of travel monies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:486 (October 1981), amended LR 20:48 (January 1994), amended LR 24:936 (May 1998), amended LR 25:

Interested persons are invited to submit inquiries or written comments on the proposed amendments by 4:30 p.m., September 20, 1999, to Joey Strickland, Executive Director, Box 94095, Capitol Station, Baton Rouge, LA

70804-9095, or to 1885 Wooddale Boulevard, 10th Floor, Baton Rouge, LA 70806.

Joey Strickland
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Members and Travel**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that the proposed rules will increase annual state general fund expenditures by approximately \$11,100 beginning in Fiscal Year 2000. These expenditures include \$8,100 for per diem and \$3,000 for out-of-state travel. The proposed amendments increase the Veterans Affairs Commission per diem from \$50 to \$75 for each day devoted to the work of the commission and expands reimbursement for necessary traveling expenses to include out-of-state travel.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules are not estimated to have any effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs to directly affected persons or non-governmental groups. The economic benefits to directly affected persons will be reimbursement of out-of-state travel expenses and a \$75 per diem to commission members in the performance of official state business.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment from the proposed rules.

Joey Strickland Robert E. Hosse
Executive Director General Government Section Director
9908#056 Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Veterans Affairs**

State Aid Eligibility (LAC 4:VII.917)

In accordance with Act 1031 of the 1999 Regular Legislative Session, the Louisiana Department of Veterans Affairs advertises its intent to amend LAC 4.VII.917.A(2) and (8), pertaining to eligibility requirements for the State Aid Program.

**Title 4
ADMINISTRATION
Part VII. Governor's Office
Chapter 9. Veterans' Affairs
Subchapter B. State Aid Program
§917. Eligibility**

A. Application must be made through the Parish Veterans Service Office. In order to be eligible, the following criteria must be met:

* * *

2. the veteran must be rated 90 percent or above service-connected disabled or who has been determined to be unemployable as a result of a service-connected disability by evaluation of the United States Department of Veterans Affairs Rating Schedule.

* * *

8. the eligible student may attend any state college or university, including institutions under the jurisdiction of the Board of Supervisors of Community and Technical Colleges; all entrance requirements for such institution must be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:485 (October 1981), LR 13:743 (December 1987), LR 19:1565 (December 1993), LR 23:1685 (December 1997), LR 25:

Interested persons are invited to submit inquiries or written comments on the proposed amendments by 4:30 p.m., September 20, 1999, to Joey Strickland, Executive Director, Box 94095, Capitol Station, Baton Rouge, LA 70804-9095, or to 1885 Wooddale Boulevard, 10th Floor, Baton Rouge, LA 70806.

Joey Strickland
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: State Aid Eligibility**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no significant anticipated implementation costs to state or local governmental units from the adoption of the proposed amendments. Prior to this amendment, dependents of veterans with 90 percent or above disability rating were not required to pay tuition to a state college, university, or vocational-technical school. This amendment expands eligibility to include dependents of veterans who are unemployable as a result of their service-connected condition, which will provide free tuition to the dependents of approximately 1046 additional veterans. The Legislature does not appropriate any funds to state schools to cover the costs of qualified dependents. State schools have been able to absorb these costs, and it is anticipated that state schools will continue to absorb any costs associated with additional qualified dependents.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendments are not estimated to have a significant effect, if any, on revenue collections of state or local governmental units. The proposed amendments will allow the dependents of approximately 1046 veterans with a disability rating to attend any state college, university, or vocational-technical school without having to pay tuition. There is the potential for a loss in revenue collections from school-imposed fees which would have otherwise been collected from a dependent who will now qualify for free tuition; however, any loss in revenue collections should be minimal.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs to directly affected persons or non-governmental groups. The economic benefits to directly affected persons will be free tuition to a state college,

university, or vocational-technical school for dependents of veterans who will now qualify from the proposed amendments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is the potential for better employment opportunities for qualified veterans' dependents who attend a state college, university, or vocational-technical school because of the tuition exemption. There is no estimated effect on competition from the proposed amendments.

Joey Strickland
Executive Director
9908#055

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners of Nursing Facility Administrators**

**Registration of Licenses and Certificates
(LAC 46:XLIX.1103)**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators is amending the rules pertaining to annual registration and registration fees. The board finds it necessary to amend this rule to provide for annual registration periods and new registration fees in order to ensure continued protection of public health and continued compliance with Federal rules and regulations regarding Medicaid/Medicare.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLIX. Board of Examiners of Nursing Facility
Administrators**

Chapter 11. Licenses

§1103. Registration of Licenses and Certificates

A.1. Every person who holds a valid license as a nursing home administrator issued by the board shall immediately upon issuance thereof be deemed registered with the board and issued a certificate of registration. Thereafter, such individual shall annually apply to the board for a new certificate of registration and report any facts required by the board on forms provided for such purpose.

A.2. - 3. ...

B.1. Upon making an application for a new certificate of registration such licensee shall pay an annual registration fee of \$245 and, at the same time, shall submit evidence satisfactory to the board that, during the annual period immediately preceding such application for registration, they have attended a continuing education program or course of study as provided in Chapter 9 of these rules and regulations. A copy of the certificate(s) of attendance for 15 hours of approved continuing education shall be attached to the annual re-registration application.

2. A licensed nursing home administrator no longer practicing in Louisiana may place his license in an inactive status. He shall continue to register his license annually but is exempt from continuing education requirements. Should a licensee wish to reactivate their license they shall undergo 60 days of on-site re-orientation under supervision of a

board-approved preceptor, unless such person has been actively practicing in another state and meets Louisiana continuing education requirements.

Interested persons may submit written comments until 4:00 p.m., October 20, 1999, to Kemp Wright, Executive Director, LA Board of Examiners of Nursing Facility Administrators, 5615 Corporate Blvd., Suite 8-D, Baton Rouge, LA 70808.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 9:461 (July 1983), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators LR 18:181 (February 1992), amended LR 25:

Kemp Wright
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Registration of Licenses and Certificates

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only cost associated with the implementation of the proposed amendment of 46:XLIX:1103 will be the cost of printing and distribution of the new regulation. It is estimated that the Register cost of \$120, printing cost of \$85, and postage cost for distribution of \$280 or a total of \$485 will be expended in FY 99/00.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated effect on revenue for this Board will be a net increase of \$229,160 every two years (\$139,930 in Year 1, and \$89,230 in Year 2). It is necessary to reflect a two year collection as the proposed rule changes the registration period from two years to one year. This estimate assumes the same number of licensees despite the increased license cost.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The persons directly affected by the proposed rule change will be licensed nursing home administrators in the state of Louisiana. The increased costs to these licensees will be a net \$170 per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Board does not anticipate any effect on competition or employment.

Kemp Wright
Executive Director
9908#058

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Nursing

Continuing Education Submission Fees (LAC 46:XLVII.3335)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.,

that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 intends to adopt rules amending the Professional and Occupational Standards pertaining to the fee increases of the board. The proposed amendments of the rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

§3335. Continuing Education/Nursing Practice

A. - G.10.b. ...

c. Fees payable upon submission of an application for total provider unit review are \$800 for two years, with \$100 being non-refundable.

11.a. - b. ...

c. Fees payable upon submission of an application for total provider unit review are \$800 for two years, with \$100 being non-refundable.

H. - H.2.a. ...

b. Fees payable upon submission of an application for review of an offering are: \$75 (non-refundable) plus \$10 for each contact hour of instruction, up to a maximum of \$700. A fee of 25% of the original fee, with a minimum of \$30, is payable for an extension of the approved status for one year.

J.1 - 4 ...

5. Fees payable upon submission of a refresher course for approval are \$400 with \$100 being non-refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:911, R.S. 37:918(4)(12) and R.S. 37:920(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:74 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), amended LR 25:514 (March 1999), LR 25:

Interested persons may submit written comments on the proposed rules to: Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 N. Causeway Blvd, Suite 501, Metairie, LA, 70002. A public hearing on this proposed rule is scheduled for Tuesday, September 28, 1999 at 10:00 a.m. at the Holiday Inn, 6401 Veterans Blvd., Metairie, LA. The deadline for receipt of all written comments is 4:30 p.m. on the next day of business following the public hearing.

Barbara L. Morvant, R.N., M.N.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Continuing Education—Submission Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The costs of implementing these rule changes are negligible. Notification of the rule changes will be provided to all registered nurses via the Board's newsletter; and cost of publishing these rules will be absorbed within the Board's existing budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Approximately seven offerings are submitted for approval per year. No providers are scheduled for renewal during 1999-2000 resulting in a decrease in revenues the first year. Six are scheduled for renewal in 2000-2001 and two in 2001-2002 resulting in the increases in revenue discussed below. This results in a change in revenue projected for three years as follows: Year 99-00 (\$625.00); year 00-01, \$4,175.00; and year 01-02, \$975.00. The Board has no applications for approval of a refresher course pending and does not anticipate any being submitted in the near future.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Costs to Continuing Education Providers will increase by \$300 for a two year provider approval and \$50 for a one year individual offering approval, plus an additional \$5 per contract hour offered.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of this measure.

Barbara L. Morvant, R.N., M.N.
Executive Director

Robert E. Hosse
General Government Section
Director
Legislative Fiscal Office

9908#040

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Nursing**

**Fees for Education Services
(LAC 46:XLVII.3505)**

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 intends to amend rules amending the Professional and Occupational Standards pertaining to the alternative to disciplinary proceedings of the board. The proposed amendments of the rules are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35. Nursing Education Programs

§3505. Approval

A. ...

B. Notwithstanding any other provisions of this Chapter, the board shall collect in advance fees for education services as follows:

- 1. School Approval-Site Visit \$500.00/site visit
- 2. Out of State Clinical Approval \$250.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:185 (April 1977), amended LR 10:1024 (December 1984), repromulgated LR 24:1293 (July 1998), amended LR 25:

Interested persons may submit written comments on the proposed rules to: Barbara L. Morvant, Executive Director,

Louisiana State Board of Nursing, 3510 N. Causeway Blvd., Suite 501, Metairie, LA 70002. A public hearing on this proposed rule is scheduled for Tuesday, September 28, 1999 at 10:00 a.m. at the Holiday Inn, 6401 Veterans Blvd., Metairie, LA. The deadline for receipt of all written comments is 4:30 p.m. on the next day of business following the public hearing.

Barbara L. Morvant
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fees for Education Services**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The costs of implementing these rule changes are negligible. Notification of the rule changes will be provided to all registered nurses via the Board's newsletter.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Approximately two nursing schools per year will require a site visit and two out of state clinical facilities will request approval for a total increase of \$1,100.00.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Costs to Schools of nursing will be an additional \$300 every 5-8 years for site visits. Currently the charge is \$100 per day for a site visit, which normally requires two days.

Cost to out of state clinical facilities (exclusive of site visit) will be \$250 every two years. Currently there is no charge for out of state clinical approval.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of this measure.

Barbara L. Morvant, R.N., M.N.
Executive Director
9908#030

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Nursing**

**Registration and Licensure Fees
(LAC 46:XLVII.3341)**

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 intends to adopt rules amending the Professional and Occupational Standards pertaining to a fee increase of the board. The proposed amendments of the rules are set forth below.

The text of this proposed rule can be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed rules to: Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 N. Causeway Blvd., Suite 501, Metairie, LA 70002. A public hearing on this

proposed rule is scheduled for Tuesday, September 28, 1999 at 10:00 p.m. at the Holiday Inn, 6401 Veterans Blvd., Metairie, LA. The deadline for receipt of all written comments is 4:30 p.m. on the next day of business following the public hearing.

Barbara L. Morvant, R.N., M.N.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Registration and Licensure Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Board will send out a special issue of their newsletter to all Louisiana licensed registered nurses, approximately 42,000, notifying them of the changes in a timely manner. The Board's newsletter is produced and mailed by LSU Graphics. The anticipated cost of printing and mailing is \$15,000.00.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Louisiana State Board of Nursing will generate additional revenues from fee increases projected at \$1,017,250 in fiscal years 1999-2000, 2000-2001, and 2001-2002. The new fees will increase revenue per year as follows: Retired License Fee - \$625 (25 @ \$25), APRN Prescriptive Authority Applications - \$2,500 (25 @ \$100), APRN Prescriptive Authority Site Change - \$625 (25 @ \$25), Reinstatement of PA Privileges - none anticipated at this time, Consultations - \$200 (2 @ \$100), Certified Documents - \$100 (100 @ \$1), Special Programming - \$400 (2 @ \$200). Increases in licensure and photocopy fees will create an anticipated revenue of \$1,015,300 based on the attached assumptions and calculations.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The costs to licensees and applicants for registered nurses licenses will increase by the amounts as specified in the rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of this measure.

Barbara L. Morvant, R.N., M.N.
Executive Director
9908#028

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

Fees and License Renewal Late Fee
(LAC 46:LXXXV.501 and 505)

The Louisiana Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.501 and 505 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950

et seq., and the Louisiana Veterinary Practice Act, La. R.S. 37:1518 et seq. No preamble has been prepared.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 5. Fees

§501. Fees

The board hereby adopts and establishes the following fees:

	Licenses:	
Annual renewal-active license		\$175
Annual renewal-inactive license		\$75
Duplicate license		\$25
Original license fee		\$150
Temporary license		\$100
	Exams:	
Clinical Competency Test (CCT)		\$190
National Board Exam (NBE)		\$215
State Board Examination		\$175
	Exam and/or License Applications:	
Application Fee		\$50

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980), amended by Department of Health and Hospitals, Board of Veterinary Medicine, LR 18:380 (April 1992), LR 19:1326 (October 1993), LR 23:963 (August 1997), LR 25:

§ 505. License Renewal Late Fee

Any license renewed after the published expiration date stated in R.S. 37:1524 shall be subject to an additional charge of \$125 as a late fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1429 (November 1993), amended LR 25:

Interested parties may submit written comments to Kimberly Barbier, administrative director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on September 28, 1999. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on September 28, 1999, at 9:00 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third St., Suite 104, Baton Rouge, LA.

Dick C. Walther
President

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Fees and License Renewal Late Fee

NOTICE OF INTENT

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

Lead Poisoning Prevention Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendment (estimated \$200). The veterinary profession will be informed of this rule change via the board's regular newsletter or other direct mailings, which are already a budgeted cost of the board.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed fees are not expected to have an impact until the 2000-2001 year (license renewals will not take place again until July 1, 2000, and almost all original licenses will be issued for the 2000-2001 year after the date on which the proposed fees would become effective). The anticipated increase in agency-self generated funds for FY00-01 is based on the following:

Category	Current Revenue	Proposed Revenue	Net Effect
Annual renewal-active license	825 x \$125 = \$103,125	825 x \$175 = \$144,375	\$41,250
Original license fee	50 x \$100 = \$5,000	50 x \$150 = \$7,500	\$2,500
License and/or Exam Application Fee	\$0	100 x \$50 = \$5,000	\$5,000
Clinical Competency Test	80 x \$50 = \$4,000	0 (after April 2000)	(\$4,000)
National Board Exam	90 x \$50 = \$4,500	0 (after April 2000)	(\$4,500)
License Renewal Late Fee	25 x \$100 = \$2,500	25 x \$125 = \$3,125	\$625
Total	\$119,125	\$159,910	\$40,875

(Note: Current revenue for Clinical Competency Test and National Board Exam excludes vendor costs included in the current fee.) There is no anticipated additional increase in revenue after FY 00/01.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Licensed veterinarians, license applicants, and examinees will be affected by the proposed action. The net cost effect on each licensee renewing a license should be \$50, unless the licensee submits a late renewal application, in which case the net effect would be \$75. Each person obtaining an original license will pay \$50 more. There will be no new paperwork required.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed rule change.

Charles B. Mann
Executive Director
9908#017

H. Gordon Monk
Staff Director
Legislative Fiscal Office

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 40:5; 40:1299.21; 40:1299.22 and 40:1299.23, the Department of Health and Hospitals, Office of Public Health proposes to amend regulations pertaining to Parish Lead Poisoning Prevention and Treatment Programs as published in the *Louisiana Register* of February 20, 1989.

The proposed rule establishes the relationship between the local and state Lead Poisoning Prevention Programs, redefines the blood lead level of a lead case, and specifies method of reporting. This rule also specifies reporting requirements for laboratories responsible for conducting analysis of blood lead levels on children in Louisiana between the ages of 6 to 72 months of age, inclusive.

A. Relationship of Local and State Lead Poisoning Prevention Programs

The local lead prevention program shall collaborate with the state Lead Prevention Program at the Office of Public Health and adhere to current Centers for Disease Control and Prevention guidelines.

B. Definitions

1. *A Case of Lead Poisoning* in children between the ages of six months of age is defined as:

a. a venous blood-lead level greater than or equal to 15 Fg/dl (micrograms per deciliter);

b. acute symptomatic illness consisting of lead colic with or without lead encephalopathy; or

c. chronic symptomatic illness consisting of the signs and symptomatic illness consisting of the signs and symptoms of chronic plumbism, including, but not limited to anemia, nephropathy, neuropathy, loss of developmental skills, recurrent lead colic and/or recurrent lead encephalopathy.

2. *Previously Reported* is defined as any case of lead poisoning which has been diagnosed by a medical provider, and reported to the Office of Public Health as specified in Subpart C of this rule.

3. *Hazardous Lead Environment* is defined as any lead based substance that exists in or about a dwelling, dwelling unit, household, school or day care facility or institutions in which children or other persons commonly reside or visit; and said lead based substance is determined to be on any surface, exposed surface, chewable surface and contains 0.5% less of the total weight or more than six hundredths of one percent (0.06%) lead by weight of nonvolatile content or in excess of seventh-tenth milligrams per square centimeter (0.7 mg/cm²) of surface when tested by a radioisotope x-ray fluorescent analyzer or any other equivalent method; or said lead based substance contains less lead than stipulated in this definition (see Section 4:001 of the Louisiana Sanitary Code also), but has been demonstrated to be a source of lead poisoning in any person, especially a child under six (6) years of age.

4. *Clinical Laboratory* is a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of substances derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease, or in the assessment or impairment of the health of human being.

C. Mandatory Case Reporting by Health Care Providers

1. Medical providers must report a lead case to the Lead Poisoning Prevention Program, Office of Public Health within 48 hours to ensure appropriate and timely follow-up. All health care providers shall assure that all the following information is completed for all blood lead analysis ordered by the health care provider and that this information accompanies the sample to the testing laboratory:

- a. child's name;
- b. parent's or the guardian's name;
- c. child's street and mailing address, including the city, state, parish, and zip code;
- d. child's date of birth;
- e. child's sex;
- f. child's race;
- g. child's national origin;
- h. child's Social Security Number;
- i. phone number where the child can be reached;
- j. Medicaid number, if any;
- k. type of sample (Venous or Capillary);
- l. sample date;
- m. type of test: first, annual, or repeat test;
- n. blood lead level results in micrograms per deciliter (Fg/dl).

2. Lead cases along with the specified information can be reported either by fax at (504)568-7722 or by telephone at (504) 599-0256, and followed up by the mailing of the information to the Louisiana Childhood Lead Poisoning Prevention Program, Office of Public Health, Room 311, 325 Loyola Avenue, New Orleans, LA. 70112

D. Reporting Requirements of Blood Lead Levels by Laboratories for Public Health Surveillance

1. Clinical laboratories responsible for conducting analysis to determine blood lead levels, and/or responsible for reporting the results of analysis to referring laboratories and other health care providers, shall also report the results to the Louisiana Office of Public Health at least monthly to the Lead Poisoning Prevention Program at the address listed in Subpart C above.

2. The following information is essential for appropriate monitoring, screening and treatment of lead poisoning.

- a. All results of blood lead testing for children between the ages of six to 72 months of age must be reported, regardless of the test results.
- b. Laboratories shall collect and report all of the information specified in numbers (1-14) in Subpart C above.
- c. Laboratories can report the information required by this rule to the Office of Public Health. by electronic transfer.

Interested persons may submit written comments on this proposed rule until the close of business on September 17,

1999. All such comments should be addressed to Maria Jose Salmeron Lancaster, MPH, Lead Poisoning Prevention Program Coordinator, Office of Public Health/DHH, P.O. Box 60630, New Orleans, Louisiana 70160-0630.

A public hearing to receive verbal and/or written comments or questions regarding the proposed rule will also be held on September 29, 1999 at 10:00 a.m. in the Environmental Office in the Blanche Appleby Computer Center, 6867 Bluebonnet Boulevard, Baton Rouge, Louisiana, Room 230.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Lead Poisoning Prevention Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Agency will incur a one time cost of approximately two hundred dollars (\$200.00) to publish this rule in the *Louisiana Register* prior to implementation. There are no additional implementation costs (savings) to state or local units from the proposed action which will redefine the blood lead level of a lead case and the updated method of reporting such cases to the Office of Public Health.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units from the proposed action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated costs and/or economic benefits to directly affected persons or non-governmental groups from the proposed action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment from the proposed action.

Jimmy Guidry, M.D.
Assistant Secretary
9908#057

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

License Plates, Registrations, and Related Matters
(LAC 55:III.367, 381, 383, 385, 387, 389, 391, 393)

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, hereby gives notice of intent to adopt rules pertaining vehicle registrations and related matters. The proposed rules address the applicability of the Federal Driver Privacy Protection Act to vehicle registration records, and the collection of sales taxes in connection with the initial registration of certain commercial motor vehicles.

**Title 55
PUBLIC SAFETY**

Part III. Motor Vehicles

Chapter 3. License Plates

Subchapter B. Vehicle Registration License Tax

§367. Driver Privacy Protection Act

A. Every individual who is an applicant for a certificate of title, or a new or renewed motor vehicle registration, shall be given the opportunity to prohibit the disclosure of personal information as defined in LAC 55, Part III, Chapter 5, §553, Subchapter B, by completing the Department's approved form, and submitting the form to the Department as required in the instructions on the form. An individual may submit a properly completed form to the Department at anytime without having to transact any other business with the Department. A form which is incomplete or which is illegible shall not be processed and shall not be returned.

B. Until the Department receives a properly completed form from an individual, the personal information provided by the individual to the Department shall be considered a public record as provided in R.S. 44:1 et seq.

C. Upon receipt of a properly completed form, the Department will code the individual's record to reflect the proper disclosure code pursuant to the option chosen on the form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

Subchapter C. Tax Exemption For Certain Trucks and Trailers Used 80 Percent of the Time in Interstate Commerce

§381. Definitions

As used in Subchapter C, the following terms have the meanings described below.

Base Plate State the state which issues an apportioned license plate pursuant to the International Registration Plan.

Department Department of Public Safety and Corrections, Office of Motor Vehicles.

Eligible Contract Carrier Buses those buses used at least 80 percent of the time in interstate commerce.

Established Place of Business a physical structure, owned, leased, or rented by the applicant, which has a publicly listed telephone, and has persons physically located at the business location for the purpose of conducting business operations.

Person includes person, corporation, partnership, limited liability company, firm, association or other legal entity formed to conduct business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§383. Exemption From Sales Tax

A. Trucks with a minimum gross weight of twenty-six thousand pounds (26,000 lbs.), trailers, and contract carrier buses used at least eighty percent (80%) of the time outside the State of Louisiana in interstate commerce may claim a sales and use tax exemption.

B. The term "trucks" and "trailers" shall have the same meaning as the terms "truck, trailer, road tractor, or semi-trailer, tandem truck, tractor, and truck tractor" as defined in

R.S. 47:451. The term "bus" shall mean a commercial vehicle with a minimum passenger capacity of thirty-five (35) persons and a minimum gross weight of twenty-six thousand pounds (26,000 lbs.). The term "contract carrier" shall mean any person transporting, other than as a common carrier, persons for hire, charge, or compensation.

C. Eligible trucks and trailers purchased or previously registered out of state and being titled using a tax date between July 1, 1996 through September 30, 1996 are exempt from partial state tax (1 percent Recovery District tax will be due) and all local parish/municipality tax. Those trucks and trailers purchased or previously registered out of state using a tax date on or after October 1, 1996, are exempt from all state and local parish/municipality tax. Business must be conducted in two or more states with Louisiana being the base plate state, therefore, only trucks which are obtaining apportioned license plates are eligible to receive this exemption.

D. Eligible contract carrier buses which were purchased or previously registered out of state and being titled using a tax date on or after July 1, 1998 are also exempt from all state and local parish/municipality tax. These buses shall be issued hire-bus or hire-passenger plates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§385. Exemption Certificate

A. The exemption certificate must be completed by the applicant and submitted along with proper title documentation and applicable fees. A separate exemption certificate is required for each vehicle and must contain a complete description of the vehicle, including year, make, and vehicle identification number.

B. For contract carrier buses, the applicant must also present proof in the form of a common carrier certificate or permit issued by the Federal Highway Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§387. Business Location in Louisiana

A. If the vehicle is being titled in the name of a company, proof that the company has an established place of business in the State of Louisiana must be furnished. Unless it can be determined that the company has been issued an employer identification number (EIN) for a Louisiana-based company (EIN should begin with 72) and other vehicles have been registered in that company's name, two of the following items must be submitted as proof that the company has an established place of business:

1. A copy of the Tax Registration certificate issued by the Louisiana Department of Revenue indicating the Louisiana Tax Identification Number.

2. A copy of the Articles of Incorporation and the Initial Report as filed with the Louisiana Secretary of State. These documents should be photocopied and returned to the applicant in the event he wishes to purchase an apportioned license plate.

3. A Certificate of Authority issued by the Louisiana Secretary of State authorizing an out-of-state based corporation to transact business in the State of Louisiana.

4. A copy of the applicant's Occupational License.

5. A copy of a lease or rental agreement on property within the State of Louisiana, indicating the lessee is the same business as reflected on the exemption certificate.

B. If the vehicle is being titled in the name of an individual, proof must be furnished that the individual is a resident of the State of Louisiana. Unless it can be determined that the individual possesses a Louisiana driver's license and has other vehicles registered in his name, two of the following items must be submitted as proof that he is a resident of Louisiana:

1. A voter's registration card.

2. A receipt from the tax assessor's office in the parish where he resides, indicating the lessee is the same individual as shown on the exemption certificate.

3. A copy of a lease or rental agreement on property within the State of Louisiana, indicating the lessee is the same individual as shown on the exemption certificate.

4. Three utility statements (electric, gas, water, telephone, or cable vision) for consecutive months indicating the applicant's name and address.

C. The code "IH" must be entered in the no-tax field to allow the exemption of state and parish/municipality sales tax for interstate commerce carriers.

§389. Expiration of Exemption

The exemption from sales and use taxes established in R.S. 47:305.50 is scheduled to expire effective June 30, 2000. All vehicles purchased after June 30, 2000 will be subject to all state and local parish/municipality tax. If the sales and use tax exemption provided in R.S. 47:305.50 is extended by the legislature, these rules shall remain in effect, subject to amendment and repeal by the Department, until such time as the legislature repeals or otherwise terminates the exemption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§391. Administrative Actions

A. The Department may suspend, cancel, or revoke any exemption granted pursuant to Subchapter C if the Department determines that the person does not meet the eligibility requirements for the exemption, or if the person has submitted false, incorrect, incomplete, or misleading information in connection with his application for an exemption.

B. Each applicant as well as each person granted an exemption pursuant to this Subchapter shall maintain the records establishing the person's eligibility for the exemption at the Louisiana business address given in the application. Each applicant as well as each person granted an exemption pursuant to this Subchapter shall make his records available for inspection and copying to any representative of the Department or of the Department of Revenue and Taxation during the hours of 8:00 a.m. to 5:00 p.m.. Monday through Friday and at any other time the person is conducting business at the location where the records are stored. Additionally, each applicant as well as each person granted an exemption pursuant to this Subchapter shall make his business premises available for inspection by any representative of the Department or of the Department of Revenue and Taxation during the hours of 8:00 a.m. to 5:00

p.m.. Monday through Friday and at any other time the person is conducting business.

C. Any request for an administrative hearing to review any action, order, or decision of the Department shall be in writing and submitted to the Department within thirty days of the date the action, order or decision was mailed or hand delivered, as the case may be. The written request for a hearing shall be mailed to the Department of Public Safety and Corrections, Office of Motor Vehicles, Hearing Request, at P. O. Box 64886, Baton Rouge, Louisiana 70896-4886, or hand delivered to the Office of Motor Vehicle Headquarters in Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§393. Declaratory Orders

A.1. Any person desiring a ruling on the applicability of any statute, or the applicability or validity of any rule, to the regulation of the sales and use tax exemption of this Subchapter shall submit a written petition to the assistant secretary. The written petition shall cite all, constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

2. If the petition includes reference to a specific transaction handled by the Department, or if the petition relates to the grant or denial of a sales and use tax exemption, then the person submitting the petition shall also submit proof that he has notified all of the persons involved in the transaction or issuance, revocation, cancellation, granting, or denial of the exemption by certified mail, return receipt requested. If the person is unable to notify the involved person or persons after otherwise complying with the notice requirement, he shall so state in his petition.

B. The assistant secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The assistant secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the assistant secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

C. Notice of the order or ruling shall be sent to person submitting the petition as well as the persons receiving notice of the petition at the mailing addresses provided in connection with the petition.

D. The assistant secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in §393 of this subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50, R.S. 47:321, and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

Persons having comments or inquiries regarding these proposed rules may contact Stephen A. Quidd, attorney for

the Office of Motor Vehicles by writing to P.O. Box 66614, Baton Rouge, Louisiana 70896, by calling (225) 925-4068, or by sending a facsimile to (225) 925-3974. These comments and inquiries should be received by Tuesday, September 21, 1999. A public hearing on these rules is tentatively scheduled for Tuesday, September 28, 1999, at 9:00 a.m. in the Executive Conference Room at the Office of Motor Vehicle Headquarters at 109 South Foster Drive, Baton Rouge, Louisiana 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing.

Nancy Van Nortwick
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Tax Exemption For Certain Trucks and
Trailers Used 80 Percent of the Time in
Interstate Commerce**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There should be no costs or savings to state government in connection with the adoption and implementation of the rules adopted pursuant to R.S. 47:305.50 and R.S. 47:321 regarding the tax exemption for certain trucks and trailers used 80 percent of the time in interstate commerce.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

These rules will not effect local governments as the Department collects the local sales and use taxes on motor vehicles registered in this state pursuant to R.S. 47:303(B)(3). Any reduction in revenues would be caused by the statutory exemption created by Act 41 of the 1998 Regular Session.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Those companies and individuals eligible to claim the sales tax exemption will not incur any costs in connection with the implementation of these rules other than the minimal cost of completing the exemption certificate required to be submitted by the applicant for a commercial motor vehicle registration.

Those companies and individuals who claim the sales tax exemption will benefit from not having to pay the sales tax that would otherwise be due at the time of initial registration.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There should be no effect on competition and employment as all motor carriers that operate primarily between Louisiana and at least one other state should be eligible for this exemption.

Nancy Van Nortwick
Undersecretary
9908#042

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Severance Tax Division**

Severance Tax Credits and Exemptions
(LAC 61:I.2905-2907)

As authorized by Acts 1998, No. 4, which repealed R.S. 47:7, and Acts 1994, No. 2, which repealed R.S. 646.1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is given that the Department of Revenue, Severance Tax Division, proposes to repeal LAC 61:I.2905 and 2907.

Section 2905 provides for administration of the tax credits to municipalities operating a manufacturing establishment or an electric generating plant based on the amount of natural gas consumed in these operations granted under R.S. 47:7. Act 4 of the 1998 Regular Legislative Session repealed R.S. 47:7. Prior to the repeal of R.S. 47:7, Act 5 of the First Extraordinary Session of 1988 had abolished the funding for this program and the specific paragraphs related to funding were repealed by Act 984 of the 1992 Regular Legislative Session.

Section 2907 provides for administration of a severance tax exemption for newly discovered wells granted under R.S. 47:646.1 et seq. Under this provision, working-interest owners were allowed an exemption from 50 percent of the severance taxes on the oil or gas produced from a newly discovered field for 24 months from the date that regular production was begun. Act 2 of the 1994 Regular Legislative Session repealed R.S. 646.1 to 646.5.

Repeal of LAC 61:I.2905 and 2907, which provide for administration of severance tax exemptions for which the statutes have been repealed, will have no effect and are considered housekeeping.

Title 61

REVENUE AND TAXATION

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

**Chapter 29. Natural Resources: Severance Tax
§2905. Provisions Relating to Tax Credits to
Municipalities**

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:7. Repealed in accordance with Acts 1998, No. 4, which repealed R.S. 47:7.

HISTORICAL NOTE: Adopted by the Department of Revenue and Taxation, Severance Tax Section, October 1974, promulgated LR 13:110 (February 1987), repealed by the Department of Revenue, Severance Tax Division, LR 25:

§2907. Severance Tax Exemption for Newly Discovered Wells

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:646.1. Repealed in accordance with Acts 1994, No. 2, which repealed R.S. 646.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 3:499 (December 1977), repealed by the Department of Revenue, Severance Tax Division, LR 25:

Interested persons may submit data, views, arguments, information, or comments on this proposed regulation in writing to Carl Reilly, Director, Severance Tax Division, Department of Revenue, P.O. Box 201, Baton Rouge LA 70821 or by FAX to (225) 925-3862. All written comments must be submitted by Monday, September 27, 1999.

A public hearing will be held on Tuesday, September 28, 1999, at 1:00 p.m. in the Department of Revenue Secretary's Conference Room, 330 North Ardenwood, Baton Rouge, Louisiana.

Carl Reilly
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Severance Tax Credits and Exemptions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Repeal of LAC 61:I.2905 and 2907, which provide for administration of antiquated tax credits and severance tax exemptions for which the statutes have been repealed, will have no impact on costs or savings to state agencies or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Repeal of LAC 61:I.2905 and 2907 will have no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Because the tax credits and severance tax exemptions have already been eliminated statutorily, repeal of LAC 61:I.2905 and 2907 will have no impact on costs or economic benefits to municipalities operating manufacturing establishments or electric generating plants or working-interest owners of oil or gas wells producing from newly discovered fields.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Repeal of LAC 61:I.2905 and 2907 will have no impact on competition or employment.

Brett Crawford
Secretary
9908#039

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Family Independence Temporary Assistance Program (FITAP) Application, Eligibility, and Furnishing Assistance (LAC 67:III.Chapters 11-13)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP). The repeal of Chapters 11 and 13 and the promulgation of Chapter 12 are proposed.

Subsequent to the federal and state legislation commonly known as "welfare reform," the agency promulgated changes to the existing code. The agency now intends to reorganize Subpart 2 of the code in order to create a codified document which more closely follows the Temporary Assistance to Needy Families (TANF) State Plan and the policy of the Family Independence Temporary Assistance Program.

All of the regulations in Chapters 11 and 13 are now contained in proposed Chapter 12 with few substantive changes. The only exceptions are the deletion of current §1157.*Income of Step-parents*, a regulation which is no longer in effect, and an addition to current regulations at §1247, that is, that months during which a recipient receives the earned income disregard shall not apply toward the twenty-four month limit.

To correspond with the effective date of the TANF State Plan, the agency intends to publish this final rule in the December 1999 issue of the *Louisiana Register*.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 11. Application, Eligibility, and Furnishing Assistance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:460.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), amended LR 10:1030 (December 1984), amended by the Department of Social Services, Office of Eligibility Determinations, LR 15:629 (August 1989), amended by the Department of Social Services, Office of Family Support, LR 18:869 (August 1992), LR 23:1707 (December 1997), LR 25:710 (April 1999), repealed LR 25:

Chapter 12. Application, Eligibility, and Furnishing Assistance

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

§1201. Application Date

All individuals applying for FITAP shall be considered applicants for assistance and shall file a written and signed application form under penalty of perjury. The date the application form is received in the parish office shall be considered the date of application. If determined eligible, benefits shall be prorated from the date of application.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1203. Standard Filing Unit

The mandatory filing unit includes the child, the child's siblings (including half and step-siblings) and the parents (including legal stepparents) of any of these children living in the home. In the case of the child of a minor parent, the filing unit shall include the child, the minor parent, the minor parent's siblings (including half and step) and the parents of any of these children living in the home. SSI recipients are excluded from this requirement.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1205. Application Time Limit

The time within which the worker shall dispose of the application is limited to within 30 days from the date on which the signed application is received in the local office. The applicant shall have benefits available through Electronic Benefits Transfer (EBT), be mailed his first payment or notified that he has been found ineligible for a grant by the 30th day, unless an unavoidable delay has occurred.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1207. Certification Period and Reapplication

A. Certification periods of a set duration will be assigned. In order to continue to receive benefits, the household must timely reapply and be determined eligible. If the payee fails, without good cause, to keep a scheduled appointment, the case will be closed without further notification. Also, if during the application process, a change is reported which results in a determination of ineligibility or a reduction in benefits, this change will be made effective the following month.

B. The Office of Family Support will require an official reapplication for benefits and prorate benefits from the date of application following a period of ineligibility.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§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. the agency has factual information confirming the death of the FITAP payee;

2. the client signs a statement requesting reduction or closure and waiving the right to advance notice;

3. the client's whereabouts are unknown and agency mail directed to the client has been returned by the Post Office indicating no known forwarding address;

4. a client has been certified in another state and that fact has been established;

5. a child is removed from the home as a result of a judicial determination, or is voluntarily placed in foster care by his legal guardian;

6. the client has been admitted or committed to an institution;

7. the client has been placed in a skilled or intermediate nursing care facility or long-term hospitalization;

8. the agency disqualifies a household member because of an Intentional Program Violation and the benefits of the remaining household members are reduced or terminated because of the disqualification;

9. the worker reduces or ends benefits at the end of a normal period of certification when the client timely reapplies;

10. a case is closed effective the fourth month because a parent fails to comply, attain good cause or become exempt from FIND Work during the three-month sanction period imposed when the parent first failed to cooperate with the FIND Work Program;

11. a case is closed effective the fourth month because a parent or other qualified relative fails to participate without good cause in the FITAP Drug Testing Program during the three-month sanction period imposed when the parent first failed to cooperate in the Drug Testing Program;

12. the case is closed due to the amount of child support collected through Support Enforcement Services;

13. the client has been certified for Supplemental Security Income and that fact has been established.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1211. Minimum Payments

FITAP grant payments in an amount of less than \$10 will be prohibited.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§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.

B. Any information obtained pursuant to this Section regarding a victim of domestic violence shall be used solely for the purposes provided for in this Section or for referral to supportive services and shall not be released to any third party, including a governmental agency, unless such agency is authorized to obtain such information by another provision of law.

C. Individuals who allege domestic violence should submit any available evidence to substantiate their claim. If the individual alleging to be a victim of domestic violence is unable to provide documentation to substantiate the claim, the client's statement may be accepted unless there is a reasonable basis to doubt the statement. The worker must continue to attempt to secure the documentation as it becomes available. The documentation may include, but is not limited to:

1. police, government agency or court records;
2. documentation from a shelter worker, legal professional, member of the clergy, medical professional, or other professional from whom the individual has sought assistance in dealing with domestic violence;
3. other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances which provide the basis for the claim;
4. physical evidence of domestic violence; or
5. other evidence which supports the statement.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

Subchapter B. Conditions of Eligibility

§1221. Age Limit

- A. A dependent child must be:
1. under 16 years of age, or
 2. sixteen to 19 years of age either in school and working toward a high school diploma, GED, or special education certificate or participating in the FIND Work Program.
- B. Unborn children are not eligible for FITAP.
- C. A pregnant woman who has completed fifth month of pregnancy may be certified if otherwise eligible (unborn is not eligible).

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1223. Citizenship

- A. Each FITAP recipient must be a United States Citizen or a qualified alien. A qualified alien is:
1. an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;
 2. an alien who is granted asylum under Section 208 of such Act;
 3. a refugee who is admitted to the United States under Section 207 of such Act;
 4. an alien who is paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year;
 5. an alien whose deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date of §307 of Division C of Public Law 104-208)

or §241(b)(3) of such Act (as amended by Section 305(a) of Division C of Public Law 104-208);

6. an alien who is granted conditional entry pursuant to §203(a)(7) of such Act as in effect prior to April 1, 1980; or

7. an alien who is a *Cuban* or *Haitian* entrant, as defined in §501(e) of the Refugee Education Assistance Act of 1980;

8. an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien if the spouse or parent consented to, or acquiesced in, such battery or cruelty. The individual who has been battered or subjected to extreme cruelty must no longer reside in the same household with the individual who committed the battery or cruelty. The agency must also determine that a substantial connection exists between such battery or cruelty and the need for the benefits to be provided. The alien must have been approved or have a petition pending which contains evidence sufficient to establish:

- a. the status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of §204(a)(1)(A) of the Immigration and Nationality Act (INA); or
- b. the classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA, or
- c. the suspension of deportation and adjustment of status pursuant to §244(a)(3) of the INA; or
- d. the status as a spouse or child of a United States citizen pursuant to clause (i) of §204(a)(1)(A) of the INA, or classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA.

9. an alien child or the alien parent of a battered alien as described in 8 above.

B. Time-limited Benefits. A qualified alien who enters the United States after August 22, 1996 is ineligible for five years from the date of entry into the United States unless:

1. the alien is admitted to the United States as a refugee under Section 207 of the Immigration and Nationality Act;
2. the alien is granted asylum under Section 208 of such Act;
3. the alien's deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date of §307 of Division C of Public Law 104-208) or §241(b)(3) of such Act (as amended by §305(a) of Division C of Public Law 104-208);
4. the alien is a *Cuban* or *Haitian* entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;
5. the alien is an *Amerasian* immigrant admitted pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988;
6. the alien is lawfully residing in the United States and is a *veteran* (as defined in Sections 101, 1101, or 1301, or as described in §107 of Title 38, *United States Code*) who is honorably discharged for reasons other than alienage and who fulfills the minimum active-duty service requirements of §5303A(d) of Title 38, *United States Code*, his spouse or the unremarried surviving spouse if the marriage fulfills the

requirements of 1304 of Title 38, *United States Code*, and unmarried dependent children; or,

7. the alien is lawfully residing in the United States and is on active duty (other than for training) in the Armed Forces and his spouse or the unremarried surviving spouse if the marriage fulfills the requirements of §1304 of Title 38, *United States Code* and unmarried dependent children.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1225. Enumeration

Each applicant for or recipient of FITAP is required to furnish a social security number or to apply for a Social Security number if such a number has not been issued or not known, unless good cause is established.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1227. Living in the Home of a Qualified Relative

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

1. grandfather or grandmother (extends to great-great-grand);
2. brother or sister (including half-brother and half-sister);
3. uncle or aunt (extends to great-great);
4. first cousin (including first cousin once removed);
5. nephew or niece (extends to great-great);
6. stepfather or stepmother;
7. stepbrother or stepsister.

These may be either biological or adoptive relatives.

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

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

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

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

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

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

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

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

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

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

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

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

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

D. The following group of persons who had been considered as essential persons are no longer eligible for inclusion in the assistance unit: the incapacitated nonlegal spouse of a qualified relative who is unrelated to anyone in the assistance unit.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1229. Income

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

1. adoption assistance,
2. earned income of a child, including a minor unmarried parent, who is in school and working toward a high school diploma, GED, or special education certificate.
3. disaster payments,
4. Domestic Volunteer Service Act,
5. Earned Income Credits (EIC),
6. education assistance,
7. energy assistance,
8. foster care payments,
9. monetary gifts up to \$30 per calendar quarter,
10. Agent Orange Settlement payments,
11. HUD payments or subsidies other than those paid as wages or stipends under the HUD Family Investment Centers Program,
12. income in-kind,
13. Indian and Native Claims and Lands,
14. irregular and unpredictable sources,
15. lump sum payments,
16. nutrition programs,
17. job training income that is not earned,
18. relocation assistance,
19. a bona fide loan which is considered bona fide if the client is legally obligated or intends to repay the loan,
20. Supplemental Security Income,
21. Wartime Relocation of Civilians Payments,
22. Developmental Disability Payments,
23. Delta Service Corps post-service benefits paid to participants upon completion of the term of service if the benefits are used as intended for higher education,

repayment of a student loan, or for closing costs or down payment on a home,

24. Americorps VISTA payments to participants (unless the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage,)

25. Radiation Exposure Compensation Payments,

26. payment to victims of Nazi persecution, or

27. restricted income received for a person not in the assistance unit or not in the income unit. Restricted income is income which is designated specifically for a person's use by federal statute or court order and may include RSDI, VA benefits and court ordered-support payments.

B. Need Standards. The FITAP need standards are as follows:

Size of Household	Current Need Standard
1	\$ 245.00
2	472.00
3	658.00
4	809.00
5	955.00
6	1,089.00
7	1,217.00
8	1,347.00
9	1,471.00
10	1,595.00
11	1,731.00
12	1,870.00
13	2,005.00
14	2,146.00
15	2,291.00
16	2,444.00
17	2,564.00
18	2,727.00

To determine the need standard amount for households exceeding 18 persons, the need standard amount for the number in excess of 18 shall be added to the need standard amount for 18 persons.

C. Earned Income Deductions. Each individual in the income unit who has earned income is entitled to a standard deduction, a \$900 time-limited deduction and, in certain circumstances, to a deduction for dependent care. The following deductions are applied, and no other deductions are allowed:

1. Standard Deduction. The standard deduction is \$120.

2. \$900 Time-limited Deduction. This deduction is applied for six months when a recipient's earnings exceed the \$120 standard deduction. The months need not be consecutive nor within the same certification periods. The deduction is applicable for a six month lifetime limit for the individual.

3. Dependent Care. Recipients may be entitled to a deduction for dependent care for an incapacitated adult, or for a child age 13 or older who is not physically or mentally incapacitated or under court supervision.

D. Flat Grant Amounts

Number of Persons	Flat Grant Amount
1	\$72
2	138
3	190
4	234
5	277
6	316
7	352
8	391
9	427
10	462
11	501
12	540
13	580
14	620
15	662
16	707
17	741
18	789
18+	See Note 1

Note 1: To determine the amount for households exceeding 18 persons, the flat grant amount for the number in excess of 18 is added to the flat grant amount for 18 persons.

E. Payment Amount

The budgetary deficit is the amount remaining after subtracting applicable income from the total assistance needs (flat grant amount). Round down to the next lower dollar of the budgetary deficit to determine the payment amount. Prorate the initial assistance payment from the date of application if otherwise eligible.

F. Income and Resources of Alien Sponsors

1. In determining eligibility and benefit amount for an alien other than those identified in §1223.A.8 and 9, the income and resources of his/her sponsor and the sponsor's spouse must be considered. The income and resources of an alien sponsor and the sponsor's spouse shall not apply to benefits during a 12-month period for those aliens identified in §1223.A.8 and 9. After a 12-month period, only the income and resources of the batterer shall not apply if the alien demonstrates that such battery or cruelty has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service (INS), and the agency determines that such battery or cruelty has a substantial connection to the need for benefits. A *sponsor* is defined as any person who executed an affidavit of support pursuant to §213A of the Immigration and Nationality Act on behalf of the alien. The income and resources of the sponsor and the sponsor's spouse shall apply until the alien:

a. achieves United States citizenship through naturalization; or

b. has worked 40 qualifying SSA quarters of coverage, or can be credited with such qualifying quarters, and in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any federal means-tested public benefit during any

such period. In determining the number of qualifying quarters of coverage, an alien shall be credited with:

i. all of the qualifying quarters of coverage worked by a parent of such alien while the alien was under age 18; and

ii. all of the qualifying quarters worked by a spouse of such alien during their marriage and the alien remains married to such spouse or such spouse is deceased.

iii. No such qualifying quarter of coverage that is creditable under Title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien under §1229.F.1.b.i or ii if the parent or spouse of such alien received any federal means-tested public benefit (as provided under §403) during the period for which such qualifying quarter of coverage is so credited. Notwithstanding §6103 of the *Internal Revenue Code* of 1986, the commissioner of Social Security is authorized to disclose quarters of coverage information concerning an alien and an alien's spouse or parents to a government agency for the purposes of this title.

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

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1231. Immunization

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 the child's removal from the FITAP grant until the child has received the required immunizations, or in the case of an immunization that requires a series of injections, has begun to receive the injections. 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.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1233. Residency

FITAP recipients must reside in Louisiana with intent to remain.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1235. Resources

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

1. home property, covered by homestead exemption;
2. burial insurance, prepaid funeral plans or prepaid funeral agreements;

3. one burial plot for each member of the assistance unit;
4. personal property;
5. inaccessible resources;
6. life insurance;
7. livestock used for home produce;
8. trust funds if all of the following conditions are met:

a. the trust arrangement is unlikely to end during the certification period and no household member can revoke the trust agreement or change the name of the beneficiary during the certification period;

b. the trustee of the fund is either a court, institution, corporation, or organization not under the direction or ownership of a household member, or a court-appointed individual who has court-imposed limitations placed on the use of the funds;

c. the trust investments do not directly involve or help any business or corporation under the control, direction, or influence of a household member. Exempt trusts established from the household's own funds if the trustee uses the funds only to make investments on behalf of the trust or to pay the education or medical expenses of the beneficiary.

9. disaster payments,
10. energy assistance payments,
11. Agent Orange Settlement Payments income,
12. Housing and Urban Development (HUD) payments and subsidies including HUD community development block grant funds,

13. Indian and Native Claims and Lands Payments received under Public Laws 92-254, 93-134, 94-540, Section 6 of Public Law 94-114 (89 Stat. 577, 25 U.S.C. 459e), tax-exempt portions made pursuant to Public Law 92-203, the Alaska Native Claims Settlement Act, and Public Law 98-123 or Public Law 98-124,

14. Women, Infants and Children (WIC) Program benefits,

15. relocation assistance,

16. Supplemental Security non-recurring lump sum retroactive payments in the month paid or the following month,

17. Wartime Relocation of Civilians Payments,

18. payments to victims of Nazi persecution,

19. real property which the family is making a good faith effort to sell,

20. \$10,000 equity value in one vehicle for each assistance unit,

21. an Individual Development Account (IDA) which is a special account established in a financial institution for the purposes of work-related education or training. Only one IDA per assistance unit is allowed. The amount of the deposits cannot exceed \$6000, excluding interest, and the balance of the account cannot exceed \$6000, including interest, at any time. Deposits to the account may be made by the recipient, by a nonprofit organization, or by an individual contributor. OFS is not responsible for enforcing stipulations placed on the use of the money by a nonprofit organization or by an individual contributor. IDA funds may be used only for the following purposes:

a. educational expenses incurred at an accredited institution of higher education;

b. training costs incurred for a training program approved by the agency; and

c. payments for work-related expenses such as clothing, tools or equipment approved by the agency.

B. Resources of Alien Sponsors - Refer to §1229.F.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1237. School Attendance

A. At redetermination a school-age child who has missed more than 15 days of school without good cause during the previous six-month period shall be placed in a probationary status. School-age, for purposes of this requirement, is defined as a child who is age 7 through 16. If, however, a child starts school at the kindergarten level before age 7, he is considered to be a school-age child at the point he starts kindergarten. If during the probationary period a child is absent from school for more than 3 days in a given calendar month without good cause, the child's needs shall be removed from the FITAP grant until documentation that the child's attendance meets the requirements is provided.

B. A child age 17 or 18 is eligible to receive assistance if attending school and working toward a high school diploma, GED, or special education certificate, or participating in or exempt from the FIND Work Program.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.3.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

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

A. Assignment of Support Rights

1. Each applicant for, or recipient of, FITAP is required to assign to the Louisiana Department of Social Services, Office of Family Support, any accrued rights to support for any other person that such applicant or recipient may have, including such rights in his own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving.

2. By accepting FITAP for, or on, behalf of a child or children, the applicant or recipient shall be deemed to have made an assignment to the department of any and all right, title, and interest in any support obligation and arrearage owed to, or for, such child or children or caretaker up to the amount of public assistance money paid for, or on, behalf of such child or children or caretaker for such term of time as such public assistance monies are paid; provided, however, that the department may thereafter continue to collect any outstanding debt created by such assignment which has not been paid by the responsible person. The applicant or recipient shall also be deemed, without the necessity of signing any document, to have appointed the Support Enforcement Services Program administrator as his or her true and lawful attorney-in-fact to act in his or her name, place, and stead to perform the specific act of endorsing any and all drafts, checks, money orders or other negotiable instruments representing support payments which are received on behalf of such child or children or caretaker as reimbursement for the public assistance monies paid to such applicant or recipient.

B. Cooperation with Support Enforcement Services

1. Each applicant for, or recipient of, FITAP is required to cooperate in identifying and locating the parent of a child with respect to whom aid is claimed, establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, obtaining support payments for such applicant or recipient and for a child with respect to whom aid is claimed, and obtaining any other payment or property due such applicant or recipient unless good cause is established.

2. Good cause exists when:

a. the client's cooperation with Support Enforcement Services is reasonably anticipated to result in physical or emotional harm to the child or caretaker relative which reduces his capacity to care for the child adequately;

b. the child was conceived as a result of incest or rape;

c. legal proceedings for adoption are pending before a court; or

d. the client is being assisted by a licensed or private social agency to resolve the issue of whether to keep the child or relinquish him for adoption. The issue must not have been under discussion more than three months.

3. Failure to cooperate in establishing paternity or obtaining child support will result in denial or termination of cash assistance benefits.

4. Failure to cooperate includes, but is not limited to, the following instances where good reason for failing to cooperate has not been established by the IV-D office:

a. failure to keep two consecutive appointments;

b. failure or refusal to cooperate at an interview;

c. failure to appear for, or cooperate during a court date or genetic testing.

5. The recipient who has failed to cooperate will be notified in writing of the sanctioning. The recipient's desire or intention to cooperate will not preclude case closure.

C. In any case in which child support payments are collected for a recipient of FITAP with respect to whom an assignment is in effect, such amount collected will be counted as income to determine eligibility.

D. Written notice will be provided to the Child Support Enforcement Agency of all relevant information prescribed by that agency within two days of the furnishing of FITAP.

E. Louisiana must have in effect a plan approved under Part D of Title IV of the Social Security Act and operate a child support program in conformity with such plan.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1241. Sanctions for Refusal to Accept a Job

Eligibility for FITAP shall be terminated for three months if a parent in the assistance unit declines or refuses the opportunity for full-time employment without good cause. The three month sanction period counts as months of FITAP receipt when applying the 24-month time limit. Assistance is not denied to an incapacitated or disabled individual in an assistance unit/household which is subject to sanction for refusal to accept full-time employment. Assistance for the incapacitated or disabled individual continues as long as the

family continues to meet all other FITAP eligibility requirements.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1243. Work Requirements

Recipients must meet the work requirements outlined in LAC 67:III.Chapter 29.

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., 46:231.9.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1245. Parenting Skills Education

As a condition of eligibility for FITAP benefits any parent under age 20 must attend a parenting skills education program provided by the Office of Family Support or provide proof of attendance of this type of training provided by another recognized agency or source. Failure to meet this requirement without good cause shall result in ineligibility for inclusion in the assistance unit. Ineligibility will continue until compliance is demonstrated.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.5.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§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 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. Months in which a recipient receives the earned income disregard shall not count toward the twenty-four month limit.

B. The time-limit provision does not apply in the following situations (in two-parent households both parents must meet at least one of these criteria):

1. the parent is incapacitated or disabled;
2. the parent has been actively seeking employment by engaging in job-seeking activities and is unable to find employment;
3. factors relating to job availability are unfavorable;
4. the parent loses his job as a result of factors not related to his job performance;
5. an extension of benefits of up to one year will enable the adult to complete employment-related education or training; or
6. hardships have occurred which affect the parent's ability to obtain employment.

C. Assistance is not denied to an incapacitated or disabled individual in an assistance unit/household which is subject to the time limitation provisions. Assistance for the incapacitated or disabled individual continues as long as the family continues to meet all other FITAP eligibility requirements.

D. Eligibility for cash assistance under a program funded by Part IV of the Social Security Act is limited to a life-time limit of 60 months. No cash assistance will be provided to a family that includes an adult who has received assistance for 60 months (whether or not consecutive) unless benefits are extended due to hardship. Any month for which such

assistance was provided will be disregarded with respect to the individual, if the individual was:

1. a minor child; and
2. not the head of a household or married to the head of a household.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.6., R.S. 46:460.5(A)(3)

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

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

A. Compliance. All adult recipients of FITAP must be free from the use of or dependency on illegal drugs. All applicants for and recipients of FITAP benefits, age 18 and over, must satisfactorily comply with the requirements of the drug screening, testing, education and rehabilitation process. An *illegal drug* is a controlled substance as defined in R.S. 40:961 et seq. - *Controlled Dangerous Substance*.

B. Screening and Referral Process. All adult applicants for and recipients of FITAP will be screened for the use of or dependency on illegal drugs at initial application and redetermination of eligibility using a standardized drug abuse screening test approved by the Department of Health and Hospitals, Office for Addictive Disorder (OAD).

1. When the screening process indicates that there is a reason to suspect that a recipient is using or dependent on illegal drugs, or when there is other evidence that a recipient is using or dependent on illegal drugs, the caseworker will refer the recipient to OAD to undergo a formal substance abuse assessment which may include urine testing. The referral will include a copy of the screening form, a copy of the Release of Information Form, and a photograph of the individual for identification purposes.

2. Additionally, if at any time OFS has reasonable cause to suspect that a recipient is using or dependent on illegal drugs based on direct observation or if OFS judges to have reliable information of use or dependency on illegal drugs received from a reliable source, the caseworker will refer the recipient to OAD to undergo a formal substance abuse assessment which may include urine testing. All such referrals will require prior approval by the supervisor of the caseworker.

3. OAD will advise OFS of the results of the formal assessment. If the formal assessment determines that the recipient is not using or dependent on illegal drugs, no further action will be taken unless subsequent screening or other evidence indicates a reasonable suspicion of illegal drug dependency or use. If the formal assessment determines that the recipient is using or dependent on illegal drugs, OAD will determine the extent of the problem and recommend the most appropriate and cost effective method of education and rehabilitation. The education or rehabilitation plan will be provided by OAD or by a contract provider and may include additional testing and monitoring. The OAD assessment will include a determination of the recipient's ability to participate in activities outside of the rehabilitation program.

C. Child care and transportation costs required for participation in the drug screening, testing, education and rehabilitation program will be paid by the Office of Family Support.

D. If residential treatment is recommended by OAD and the recipient is unable to arrange for the temporary care of dependent children, OFS and/or OAD will coordinate with the Office of Community Services to arrange for the care of such children.

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 the following:

1. The recipient's needs will be removed from the FITAP cash benefits for three months. Eligibility of the other family members will continue during this three-month period.

2. If the recipient cooperates during this three-month period, the recipient will regain eligibility for cash benefits effective the fourth month.

3. If the recipient does not cooperate during this three-month period, the FITAP cash case for the entire family will be closed effective the fourth month and will remain closed until the individual cooperates.

4. A subsequent failure to cooperate will result in case closure until the recipient cooperates. 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.

F. If after completion of education and rehabilitation, the recipient is subsequently determined to use or be dependent on illegal drugs, the recipient will be ineligible for FITAP cash benefits until such time that OAD determines that the individual has successfully completed the recommended education and rehabilitation program and is drug free. The eligibility of other family members will not be affected as long as the individual participates in the education and rehabilitation program.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1251. Fleeing Felons and Probation/Parole Violators

A. No cash assistance shall be provided to a person fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the state from which the individual flees. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

B. No cash assistance shall be provided to a person violating a condition of probation or parole imposed under federal or state law. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1253. Strikers

FITAP benefits cannot be paid to families in which the caretaker relative or stepparent is participating in a strike on the last day of the month and, if any other member of the

household is participating in a strike, his or her needs cannot be considered in computing the FITAP benefits.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1255. Individuals Convicted Of A Felony Involving A Controlled Substance

An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C. 802[6]) shall be disqualified from receiving cash assistance for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

Subchapter C. Recovery

§1285. IV-D Recovery of Support Payments

A. When assigned child support payments are received and retained by the FITAP applicant/recipient, responsibility is placed with the IV-D agency (Child Support Enforcement Services) to recover all such payments. The only exception is a direct payment retained by the recipient during the period when the sanction for failure to cooperate is in effect.

B. In providing for this policy the IV-D staff must:

1. document that the recipient has received and retained direct payments, and the amounts;

2. provide a written notice of intent to recover the payments to the recipient including:

a. an explanation of the recipient's responsibility to cooperate by turning over direct payments as a condition of eligibility for FITAP, and a sanction for failure to cooperate as provided at 45 CFR 232.12(d);

b. a detailed list of the direct payments as documented by IV-D, including dates and amounts of payments and description of documentary evidence possessed by IV-D;

c. a proposal for a repayment agreement related to the recipient's income and resources including the FITAP grant and the total amount of retained support;

d. providing the opportunity for the recipient to have an informal meeting to clarify his responsibilities and to resolve any differences regarding repayment.

C. The IV-D Agency (Child Support Enforcement Services) must refer the case to IV-A (FITAP Program) with evidence of failure to cooperate if the recipient refuses to sign a repayment agreement or signs an agreement but subsequently fails to make a payment. IV-D must also notify IV-A if a recipient later consents to an agreement or if the recipient who defaulted on the agreement begins making regularly scheduled payments.

D. To recover amount due from any period of default, the IV-D Agency (Child Support Enforcement Services) must extend the duration of the agreement.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

Chapter 13. Special Conditions of Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:460.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1323 (July 1998), repealed LR 25:

Interested persons may submit written comments by September 28, 1999 to the following address: Vera W. Blakes, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on September 28, 1999 at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Family Independence Temporary
Assistance Program (FITAP)—Application, Eligibility,
and Furnishing Assistance**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The costs of implementation are a result of a revision at §1247 pursuant to Act 572 of the 1999 Louisiana Legislature which provides that months during which recipients receive the earned income disregard should not apply toward the 24-month FITAP eligibility limit. The increased costs are estimated to be \$210,375 in FY 99/00 and \$297,000 in FY 00/01 and 01/02.

There are no costs or savings to local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no 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)**

Amounts estimated in Section I represent additional FITAP benefits paid to the affected recipients. There are no costs to these persons. There are no costs or benefits to non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed rule will have no impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9908#054

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**FIND Work Participation Requirements
(LAC 67:III.2907-2913)**

The Department of Social Services, Office of Family Support, proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 5, Family Independence Work Program, known in Louisiana as "FIND Work".

Public Law 104-193, as amended by Public Law 105-33, the Balanced Budget Act of 1997, mandated certain changes in the Individual Participation Requirements for each fiscal year from 1997 to the year 2003. Changes effective October 1999 are proposed at §2907.B.1, 3, 4, and 6 and §2911.A.4.

The agency also proposes to reorganize other sections of Subpart 2 in order to create a codified document which more closely follows the Temporary Assistance to Needy Families State Plan (TANF) and the policy of the FIND Work Program, including the addition of §2907.A.3, 4 and 5 which is age-specific policy, §2909.A, B, and C which provides specific information regarding "good cause," and §2913.A.2.b regarding transportation payments for participants who become ineligible for cash assistance due to earned income.

An emergency rule will effect those regulations which are required by federal law effective October 1, 1999. To correspond with the effective date of the TANF State Plan, the agency intends to publish this notice as a final rule in the December 1999 issue of the *Louisiana Register*.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 5. Family Independence Work Program
(FIND Work)**

Chapter 29. Organization

Subchapter B. Participation Requirements

§2907. Individual Participation Requirements

A.1. - 2. ...

3. A dependent child under age 16 is exempt.

4. A dependent child age 16 attending elementary, secondary, vocational, or technical school on a full-time basis is exempt.

5. A dependent child age 17 or 18 attending school and working toward a high school diploma, GED or Special Education Certificate is exempt.

B. ...

1. A single parent/caretaker eligible for cash assistance is required to participate at least 30 hours per week, with not fewer than 20 hours per week attributable to an activity described in §2911.A.1, 2, 3, 4, 5, 9 or 10.

2. ...

3. A single parent/caretaker with a child under age 6 is deemed to be meeting participation requirements if that parent/caretaker is engaged in an activity described in §2911.A.1, 2, 3, 4, 5, 9 or 10 for a monthly average of 20 hours per week.

4. A parent/caretaker under age 20 is deemed to be meeting participation requirements if that parent/caretaker:

a. maintains satisfactory attendance in an activity described in §2911.A. 6, or

b. participates in an activity described in §2911.A.7 for a monthly average of 20 hours per week.

5. For a parent/caretaker age 20 or over, participation in an activity described in §2911.A.6, 7 and 8 may be counted if that parent/caretaker meets the requirements described in §2907.B.1 or 2.

6. No more than 30 percent of individuals in all families and in two-parent families, respectively, who meet countable participation requirements in a month, may consist of:

a. individuals who meet countable participation requirements in an activity described in §2911.A.5; or

b. individuals who are deemed to be meeting participation requirements as described in §2907.B.4.

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 16:1064 (December 1990), LR 19:504 (April 1993), LR 19:1177 (September 1993), LR 23:450 (April 1997), LR 24:1781 (September 1998), LR 25:

§2909. Failure to Participate

A. Failure to participate in the FIND Work Program, without good cause, will result in the removal of the parent's needs from FITAP benefits for a period of three months. If the parent complies, attains good cause or becomes exempt during this time, he may be re-added to the certification effective the fourth month. If he fails to comply, attain good cause or become exempt, the FITAP case will be closed effective the fourth month, and will remain closed until he complies, attains good cause or becomes exempt. A second or subsequent failure to comply will result in closure of the FITAP case and the case cannot be recertified until the parent complies, attains good cause or becomes exempt.

B. Failure of a household member, other than a parent, to participate in the FIND Work Program, without good cause, will result in the removal of the member's needs from the FITAP benefits until the member complies, attains good cause or becomes exempt.

C. Good cause reasons for not participating in the FIND Work Program may include but are not limited to the following:

1. personal illness or injury;
2. physical or mental incapacity;
3. age 60 or older;
4. family emergency or crisis situation;
5. domestic violence as described in LAC 67:1213;
6. unavailability of transportation or child care;
7. individual catastrophic conditions;
8. health or safety hazards at the participation site;
9. participation in FITAP drug testing program;
10. inability to speak the English language and work activity would require this skill;

11. discrimination based on race, color, religion, sex, age, natural origin, etc.;

12. appointment with health care provider and alternative arrangements cannot be made;

13. child care or day care for an incapacitated individual living in the home cannot be made.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193; R.S. 46:231, R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 18:870 (August 1992), LR 19:504 (April 1993), LR 23:451 (April 1997), LR 24:353 (February 1998), LR 25:

§2911. Work Activities

A. - A.3. ...

4. job search/job readiness, limited to six weeks per individual per federal fiscal year, of which no more than four may be consecutive;

5. - 10. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 17:1227 (December 1991), LR 19:504 (April 1993), LR 20:1130 (October 1994), LR 22:1142 (November 1996), LR 23:451 (April 1997), LR 25:

§2913. Support Services

A. Support services include child care, transportation and other employment-related expenses designed to eliminate or moderate the most common barriers to employment.

1. Effective October 1, 1997 child care support services and payments are administered through the Child Care Assistance Program, LAC 67 III. Subpart 12.

2. Transportation Payment

a. Payments may not exceed \$500 per participant per month.

b. Participants who become ineligible for cash assistance due to earned income are eligible for a one-time transportation payment of \$100.

3. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:309 (March 1991), amended LR 17:388 (April 1991), LR 18:244 (March 1992), LR 18:687 (July 1992), LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 19:504 (April 1993), LR 20:793 (July 1994), LR 23:451 (April 1997), LR 24:356 (February 1998), LR 24:1135 (June 1998), LR 25:526 (March 1999), LR 25:

Interested persons may submit written comments through September 28, 1999 to: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed rule will be held on September 28, 1999 at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, 70802 at 9:00 a.m. All interested persons will be afforded an opportunity to submit data,

views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: FIND WORK—Participation
Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no costs or savings to state or local governmental units associated with this rule; it only revises regulations governing the requirements for participation in the FIND Work Program. The administrative cost of publishing the rule and printing policy revisions is minimal
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is 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 is no anticipated effect on costs and/or benefits to directly affected persons or non-governmental units.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9908#053

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Department of Social Services
Office of Family Support**

General Administration Hearings and Procedures
(LAC 67:III.301 - 333 and 801)

The Department of Social Services, Office of Family Support, proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 1, General Administrative Procedures.

Subsequent to the federal and state legislation commonly known as "welfare reform", the agency now proposes to reorganize LAC 67:III.Chapter 3 to include and codify the entire Fair Hearing component of the Agency as operated under the Food Stamp Act, the Child Care and Development Block Grant, and Title IV-A of the Social Security Act.

The Agency also proposes to promulgate Chapter 8 to establish as part of LAC that the effective date of rules is generally the first of the month following the month of publication. This has been the policy of the Office of Family Support because of the difficulty in applying eligibility criteria other than on a monthly basis.

**Title 67
SOCIAL SERVICES**

**Part III. Office of Family Support
Subpart 1. General Administration**

**Chapter 3. Hearings
§301. Definitions**

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

Administrative Disqualification Hearing is an administrative hearing to determine if an intentional program violation occurred.

Administrative Law Judge (ALJ) is an impartial individual responsible for conducting a Fair Hearing and issuing a recommended or final decision on the issues in question.

Advance Notice is notice informing the client of a proposed adverse action and the date that the future action will be taken.

Advance Notice Period is the period from the date of the notice to the date the proposed action is to be taken.

Adverse Notice is any written notice informing the client of any agency action which unfavorably affects his case and when that action is effective.

Agency is any operating unit of the Office of Family Support such as local, regional, or state offices.

Agency Conference is a meeting between the claimant and the agency where a supervisor or administrator explains the action that is being appealed. It may be conducted by telephone if the claimant agrees. The examiner/case manager/specialist may participate if the supervisor deems this appropriate and the claimant is in agreement.

Appeal Decision is an official report which contains the substance of what transpired at the hearing and a summary of the case facts, identifies pertinent state or federal regulations and gives the reason for the decision. It is the final written decision of the Department of Social Services (DSS), Bureau of Appeals, on the issue in question.

Authorized Agent is any person acting on behalf of an applicant/recipient. This may include a friend, relative, attorney, paralegal, legal guardian, conservator, or foster care provider. For Food Stamp purposes, it may also mean an authorized representative or another household member.

Benefits are any kind of assistance, payments or benefits made by the agency for Family Independence Temporary Assistance Program (FITAP), Refugee Cash Assistance, Food Stamps, FIND Work, or Child Care Assistance Programs.

Claimant is an applicant or recipient who has requested a hearing.

Concurrent Notice is notice informing the client of an action on his case which is being effected at the time the notice is given. The client is also informed of his right to request a Fair Hearing within an appropriate time-period.

Date of Action is the intended date on which a termination, suspension, or reduction of benefits becomes effective.

Directive is a written communication from the Bureau of Appeals to the agency giving specific instructions to be

taken as a result of a hearing. This action shall be taken within 10 days and reported to the Bureau of Appeals within 14 days of the receipt of the directive.

Fair Hearing is an administrative procedure during which a claimant (or a group of claimants) or his (or their) authorized agent may present a grievance and show why it is believed the agency action, proposed action, or inaction is not fair and should be corrected. A Fair Hearing meets the due process requirements set forth in the U.S. Supreme Court decision in *Goldberg vs. Kelly*.

Official Hearing Record consists of a verbatim transcript or an official report summarizing what transpired at the hearing, all evidence and other material introduced at the hearing, the recommendations of the Administrative Law Judge, and the directive, if issued.

Public Assistance Household is a food stamp household in which all members receive FITAP, RCA, or SSI.

Request for a Fair Hearing is any clear expression (oral or written) by the claimant or his authorized agent that he wants to appeal an agency decision to a higher authority.

Subpoena is an order commanding that a designated person or document be present at a Fair Hearing.

Summary of Evidence is a document prepared by the agency stating the reason(s) the agency decided to take the action being appealed. Its purpose is to provide the claimant information needed to prepare his case for the hearing.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:689 (July 1985), amended by Department of Social Services, Office of Family Support, LR 25:

§303. General Rules and Principles

A. The DSS Bureau of Appeals is responsible for providing a system of hearings which must meet the due process standards set forth in Federal Regulations, State laws, and *Goldberg vs. Kelly* 397 US 245 (1970).

B. Each applicant is informed by the application form and by the appropriate notification forms (as decisions are made affecting his case) of his right to a hearing, of the method by which a hearing may be requested, and who may present his case. Detailed information concerning the Fair Hearing procedure is contained in the Fair Hearing Pamphlet, Form OFS 5F, which is provided by the DSS Bureau of Appeals when a Fair Hearing is requested.

C. The claimant may represent himself at the hearing or be represented by any authorized agent.

D. Minimum procedural safeguards necessary to accomplish the purpose of a Fair Hearing are:

1. a notice explaining the reason for the action and citing the policy reference;
2. an opportunity to defend by confronting adverse witnesses;
3. an opportunity to present arguments and evidence orally;
4. an opportunity to appear with counsel;
5. an impartial Administrative Law Judge;
6. a decision based solely on the legal rules and the evidence offered as proof at the hearing or obtained subsequent to the hearing; and

7. a statement explaining the reasons for the decision of the Administrative Law Judge and indicating the evidence on which the decision is based.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§305. Right to Request a Fair Hearing

A. Every applicant/recipient who believes he has been unjustly treated regarding benefits or services under any program administered by the Office of Family Support may request a Fair Hearing.

B. The DSS Bureau of Appeals has the right to deny a request for a Fair Hearing when:

1. the request is outside of the jurisdiction of the DSS Bureau of Appeals;
2. the request for a hearing is made after the time limit has expired; or,
3. the sole issue is one of state or federal law or regulation requiring automatic adjustment in benefits for classes of recipients.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§307. Time Limits for Requesting a Fair Hearing

A. When a decision is made on a case, the client is notified and is allowed the following number of days from the date of the notice to request a Fair Hearing:

FITAP	30 days
FIND Work Program	30 days
Child Care Assistance	30 days
Refugee Cash Assistance	30 days
Food Stamps	90 days

The client may appeal at any time during a certification period for a dispute of the current level of benefits.

B. An appeal is timely requested if the appeal request:

1. is delivered on or before the due date; or,
2. mailed on or before the due date. If the appeal request is received by mail on the first working day following the due date, there shall be a rebuttable presumption that the appeal was timely filed. In all cases where the presumption does not apply, the timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. For purposes of this Section, by mail applies only to the United States Postal Service.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§309. Time Limits for Decisions to be Rendered

A. A prompt, definitive and final decision must be provided within the number of days from the date of the Fair Hearing request as listed below:

FITAP	90 days
FIND Work Program	90 days

Child Care Assistance	90 days
Refugee Cash Assistance	90 days
Food Stamps	60 days, or 90 days for Public Assistance households simultaneously appealing the same issue in Public Assistance and Food Stamp cases

B. If the hearing is delayed at the request of the claimant or his authorized agent, the time limit for the rendering of a decision is extended for as many days as the hearing is delayed. However, the hearing cannot be delayed more than 30 days without good cause.

C. Limits for rendering a decision may be extended when the client wishes to present additional evidence. The limits are extended for the number of days it takes the client to submit the evidence.

D. Failure to meet the time limits in this section shall have no effect on the validity of the decision.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§311. Expedited Food Stamp Hearings

A. The DSS Bureau of Appeals and the agency must expedite hearing decisions for Food Stamp households that plan to move from the jurisdiction of the hearing official before the hearing decision would normally be reached. Hearing requests from these households shall be expedited if necessary to enable them to receive a decision before they leave the area.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§313. Continuation of Benefits

A. Recipients in all categories, except FIND Work and Child Care Assistance, who request a Fair Hearing prior to the expiration of the Advance Notice of Adverse Action or within 13-days of the date of Concurrent Notice must have benefits continued at, or reinstated to, the benefit level of the previous month, unless:

1. the recipient indicates he does not want benefits continued;
2. a determination is made at the hearing that the sole issue is one of existing or changing state or federal law; or,
3. a change unrelated to the appeal issue affecting the client's eligibility occurs while the hearing decision is pending and the client fails to request a hearing after receiving the notice of change.

B. Benefits will continue at the prior level until the end of the certification period or until the resolution of the hearing, whichever is first. Such benefits are subject to recovery by the agency if the action is upheld.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§315. Client Rights

A. The claimant or his authorized agent has the right to:

1. Agency assistance in filing and preparing his request or an explanation of how to file an appeal.

2. Specific case record documents or applicable policy necessary to determine whether a hearing should be requested and/or the documents or policy necessary to prepare for a hearing. This is provided upon request and without charge.

3. Information about, and referral to, available community legal services.

4. A verbal explanation of the hearing procedures in the appropriate language if the individual making the request does not speak English.

5. Review the case record. Upon request and at a reasonable time before the hearing, the claimant and/or his authorized agent must be allowed to review the claimant's case record or any documents to be used by the agency at the hearing in the presence of an agency representative.

a. Confidential records, including confidential medical records, must be withheld unless the records were used as the basis for the determination which is being appealed.

b. The client must provide written permission before anyone other than the client is allowed to view the case record.

6. Present his case himself or with the aid of others, including legal representation.

7. Request that a subpoena be issued. The DSS Bureau of Appeals will evaluate such requests and authorize the agency to serve the subpoena if appropriate.

8. Request a postponement prior to the hearing. The DSS Bureau of Appeals will decide if a postponement is to be granted based upon good cause. Regardless of good cause, requests for rescheduling an initial hearing for a Food Stamp appeal will be granted.

9. Submit evidence and bring witnesses to the hearing. The claimant has the right to advance arguments without undue interference and to question or refute any testimony or evidence, including the right to confront and cross examine witnesses.

10. Request a rescheduled hearing after failing to appear at the hearing. The DSS Bureau of Appeals will evaluate the requests to determine if good cause exists.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§317. Responsibility of DSS Bureau of Appeals When a Fair Hearing is Requested

A. The Bureau of Appeals has the sole responsibility for accepting or rejecting all requests for a Fair Hearing.

B. The Bureau of Appeals must acknowledge Fair Hearing requests made directly to that office by or for a claimant, or requests submitted by the agency. All requests must be denied or accepted in writing. The agency will receive appropriate notification.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§319. Scheduling

A. The Bureau of Appeals will schedule all Fair Hearings. The claimant, his authorized agent, and the agency will be notified at least ten days in advance of the time, place and date of the hearing. Hearings will be scheduled during regular working hours and will normally be set in the agency

office, unless there are reasons for scheduling in another location.

B. Any hearing which is required or permitted hereunder may be conducted utilizing remote telephonic communications if the record reflects that all parties have consented to conducting the hearing by use of such communications and that such procedure will not jeopardize the rights of any party to the hearing. A face-to-face hearing will be conducted if requested by the appellant.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§321. Providing a Summary of Evidence to the Client

A. The Bureau of Appeals will provide a copy of the Summary of Evidence to the claimant or to his authorized agent with the notice for scheduling the Fair Hearing.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§323. Withdrawals

A. The claimant may withdraw his request for a fair hearing at any time prior to the hearing. The Bureau of Appeals must send written notice to the client, the client's representative and the agency confirming the withdrawal.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§325. Dismissal of a Request for a Fair Hearing

A. A Fair Hearing request which is accepted by the Bureau of Appeals may be disposed of without a hearing and without a decision only when:

1. the request for a Fair Hearing is withdrawn, or
2. the claimant abandons his request for a hearing. If the claimant or his authorized agent fails to appear for a hearing and has made no contact with the agency or the Bureau of Appeals, the request for a Fair Hearing will be considered abandoned. If he later requests to reschedule, the request will be evaluated for good cause.

3. The issue is settled in the claimant's favor by the agency.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§327. Group Hearings

A. When an agency policy or regulation is the sole issue, the Bureau of Appeals may schedule a single group hearing to respond to a series of individual requests. Regulations governing individual Fair Hearings are followed. Each individual claimant must be permitted to present his case or be represented by an authorized agent. If a group hearing is arranged, an individual claimant must be given the right to withdraw from the group hearing in favor of an individual hearing.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§329. Attendance

A. Only persons directly concerned are permitted to attend the hearing. The claimant may be accompanied or

represented by anyone he believes necessary or desirable to support his claim, including legal counsel if he so desires.

B. Appropriate agency representatives and service providers are required to attend the hearing.

C. The Administrative Law Judge has the authority to limit the number of persons in attendance.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§331. Hearing Official

A. Hearings shall be conducted by an impartial official(s) who:

1. does not have a personal involvement in the case;
2. was not directly involved in the initial determination of the action which is being contested; and
3. was not the immediate supervisor of the eligibility worker who took the action.

B. The hearing official shall be:

1. an employee of the Department of Social Services; or
2. an individual under contract with the Department of Social Services.

C. The hearing official shall:

1. administer oaths or affirmations;
2. insure that all relevant issues are considered;
3. request, receive and make part of the record all evidence determined necessary to decide the issues;
4. regulate the conduct and course of the hearing consistent with due process to insure an orderly hearing;
5. order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the Department of Social Services;
6. Provide a hearing record and recommendation for final decision by the hearing authority; or, if the hearing official is the hearing authority, render a hearing decision in the name of the Department of Social Services which will resolve the dispute.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§333. Hearing Authority

A. The hearing authority shall be the person designated to render the final administrative decision in a hearing.

B. Decisions of the hearing authority shall comply with State and Federal law and regulations and shall be based on the hearing record.

C. A decision by the hearing authority shall be binding on the Department of Social Services and shall summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and the pertinent State or Federal regulations. The decision shall become a part of the record. The household shall be notified in writing of the:

1. decision;
2. reasons for the decision;
3. available appeal rights; and
4. right to pursue judicial review of the decision.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

Chapter 8. General Administrative Procedures
§801. Implementation of Regulations

Because of the nature of the eligibility programs administered by the agency, rules promulgated by the Office of Family Support are effective the first of the month following the publication of the final rule, unless otherwise stated within the rule.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

Interested persons may submit written comments by September 28, 1999 to the following address: Vera W. Blakes, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on September 28, 1999 at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven

working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: General Administration—Hearings
and Procedures**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The immediate implementation cost to state government is the cost of publishing the rule. This cost is minimal and funds for such actions are included in the program's annual budget. There are no costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no 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)

There are no costs or economic benefits to persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9908#060

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Legislation

LEGISLATION

State Legislature House of Representatives

House Concurrent Resolution Number 6
of the 1999 First Extraordinary Session
by Representative Windhorst

Charitable Gaming Control Rules
(LAC 42:I.1725, 1731, 1742, 1757, 1787, and 2215)

A CONCURRENT RESOLUTION to amend the Department of Public Safety and Corrections, office of state police, division of charitable gaming control rules (LAC 42:I.1731(C), LAC 42:I.1742(B)(1), LAC 42:I.1757(A), LAC 42:I.1787(A)(2), and LAC 42:I.2215), to provide that certain pull-tabs may be defaced two hours following the session, to provide for the timely payment for charitable gaming supplies, and to provide for prohibited combination of interests for commercial lessors and their immediate family members; to provide with respect to the model accounting system; and to repeal the Department of Public Safety and Corrections, office of state police, division of charitable gaming control rule (LAC 42:I.1725(D)(1)(d)), which provides that a bingo caller is a position of managerial capacity, and to direct the Louisiana Register to print the amendments in the Louisiana Administrative Code.

WHEREAS, the Charitable Raffles, Bingo and Keno Licensing Law was enacted in 1968; and

WHEREAS, the Louisiana Legislature from 1990 through 1992 authorized gaming upon riverboats along designated waterways, gaming at a land-based casino, the operation of video draw poker devices, and the conducting of a state lottery; and

WHEREAS, in a period of nine years the state of Louisiana has experienced a proliferation of gaming activities and legislation dealing with gaming activities; and

WHEREAS, charitable raffles, bingo, and keno gaming activities serve as valuable mechanisms generating revenue for deserving charitable organizations vital to the welfare of the people of the state of Louisiana; and

WHEREAS, the amount of money being spent on all gaming activities is limited and, given the recent increase in legalized gaming activities and subsequent interest in these activities, the charitable gaming industry has suffered a tremendous drop in attendance and participation and a resulting decrease in revenue generation for charitable organizations; and

WHEREAS, the legislature has attempted to improve the viability of charitable gaming by upgrading the games offered and enacted provisions authorizing electronic video bingo games, progressive bingo games, and electronic pull-tab device operation; and

WHEREAS, despite these attempts the charitable gaming industry has continued to suffer, and ways to improve the efficiency of the games are constantly being sought; and

WHEREAS, anything that will help the charitable gaming industry and the state of Louisiana's charitable organizations is worthy of every consideration; and

WHEREAS, amending the rules of charitable gaming will help these charitable organizations; and

WHEREAS, R.S. 49:969 provides that "the legislature, by concurrent resolution, may suspend, amend, or repeal any rule or regulation or body of rules or regulations adopted by a state department, agency, board, or commission".

THEREFORE, BE IT RESOLVED by the Legislature of Louisiana that LAC 42:I.1731(C), LAC 42:I.1742(B)(1), LAC 42:I.1757(A), LAC 42:I.1787(A)(2), and LAC 42:I.2215 are hereby amended to read as follows:

§1731. Record Retention Requirements

* * *

C. All organizations using pull-tabs shall retain unsold or defective pull-tabs along with the winning tickets of any series not completely sold. High tier winning tickets shall be defaced by the licensee when redeemed for prize payout; all other winning tickets shall be defaced within two hours of the conclusion of the session. Organizations should record names and identities of all jackpot winners and pull-tab high tier winners.

* * *

§1742. Minimum Internal Accounting Control

* * *

B. The following are minimum internal accounting controls which must be implemented by all licensees:

1. the results of each gaming session must be fully and accurately documented. The "Division's Uniform Accounting System" will be used in its entirety by all licensed organizations with an anticipated annual gross of \$25,000 or more in order to ensure strict accountability for the handling of cash and inventory by all participating members; provide a sound audit trail; and allow for the systematic accumulation of data needed for preparation of the division's quarterly report;

* * *

§1757. Timely Payment of Supplies; Penalty for Violation

A. No distributor shall sell, offer to sell, or deliver any charitable gaming product to any licensed organization in this state, and no organization shall buy or accept delivery of any licensed charitable gaming supplies except on terms of immediate payment or on terms requiring payment not later than the fifteenth day following that on which actual delivery is made. If any payment is not made when due, the distributor may notify the charitable gaming division thereof and, it shall be the responsibility of the division to notify all manufacturers and distributors licensed in the state of the default and thereafter no person shall sell any charitable

gaming product to the organization in default on any other terms than immediate payment until otherwise authorized by the division. Under penalty of suspension of its license, the organization which is in default shall pay its obligation in full within thirty days from the date it became due.

* * *

§1787. Penalty Provisions

A. Civil penalties may be assessed by the division against any person, licensee, or other legal entity in accordance with the following schedule.

* * *

2. Violations of statutes or rules relative to the conducting of games of chance, including but not limited to conducting unauthorized games, participation by unauthorized persons, unauthorized distribution or procurement of supplies or equipment, failure to maintain proper records of gaming sessions, failure to properly use and retain records relative to the uniform accounting system shall be subject to a civil penalty not to exceed \$500 per violation.

* * *

§2215. Combination of Interests Prohibited

A. No person licensed as a commercial lessor or his immediate family shall:

1. have a direct or indirect financial interest in any entity which manufactures or distributes supplies or equipment for charitable games of chance; or

2. serve as a proprietor, employee, officer, director, shareholder or owner of more than two percent ownership interest of any entity which manufactures or distributes supplies or equipment for charitable games of chance.

B. No person licensed as a commercial lessor or his spouse shall:

1. serve as an officer or director of any charitable organization which rents, leases, or uses the commercial premises for conducting games of chance; or

2. hold, operate, conduct, or assist in the holding, operating, or conducting of a charitable game of chance at the commercial premises.

* * *

BE IT FURTHER RESOLVED by the Legislature of Louisiana that LAC 42:I.1725(D)(1)(d) is hereby repealed in its entirety:

§1725. Miscellaneous

* * *

D. Active members of one licensee shall be allowed to assist in the conduct of another licensee's gaming activity but may not act in a managerial capacity.

1. Workers performing the following activity are considered to be in a managerial capacity, and must be bona fide active members of the organization licensed to conduct the gaming activity:

a. workers who appear to be in charge of the game;

b. workers responsible for filling out forms or paperwork;

c. workers responsible for the money or money counts.

* * *

BE IT FURTHER RESOLVED that the clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the office of the Louisiana Register, the office of the attorney general, gaming division, and the

Department of Public Safety and Corrections, office of state police, division of charitable gaming control.

BE IT FURTHER RESOLVED that the Louisiana Register is hereby directed to have the amendments to LAC 42:I.1731(C), LAC 42:I.1742(B)(1), LAC 42:I.1757(A), LAC 42:I.1787(A)(2), and LAC 42:I.2215 and the repeal of LAC 42:I.1725(D)(1)(d) printed and incorporated into the Louisiana Administrative Code and to transmit a copy of the revised rules to the Department of Public Safety and Corrections, office of state police, division of charitable gaming control.

Hunt Downer
Speaker of the House
of Representatives
9908#014

Randy L. Ewing
President of the Senate

LEGISLATION

State Legislature House of Representatives

House Concurrent Resolution Number 158
of the 1999 First Extraordinary Session
by Representative Montgomery

Emergency Medical Vehicle Operation License

A CONCURRENT RESOLUTION to repeal any and all rules adopted by the Department of Health and Hospitals requiring operators of emergency medical vehicles to possess a valid Class "D" driver's license.

WHEREAS, the State Plan for the administration of federal Medicaid and Medicare funds contains a requirement that firefighters who operate emergency medical vehicles shall possess a valid Class "D" driver's license, commonly referred to as a chauffeur's license; and

WHEREAS, there does not appear to be any federal requirement that such operators possess a valid Class "D" driver's license; and

WHEREAS, state law specifically provides that the only driver's license required of a full-time, regularly paid operator of an emergency medical vehicle or firefighting equipment employed by a municipality, parish, fire protection district, or other political subdivision of the state shall be a Class "E" driver's license; and

WHEREAS, state law also requires only a Class "E" driver's license for volunteer operators of emergency medical vehicles or firefighting equipment; and

WHEREAS, the legislature has the authority under the provisions of R.S. 49:969 to suspend, amend, or repeal by concurrent resolution any rule or regulation adopted by a state department.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana hereby repeals any and all rules adopted by the Department of Health and Hospitals requiring operators of emergency medical vehicles to possess a valid Class "D" driver's license.

BE IT FURTHER RESOLVED that the repeal of the rules requiring operators of emergency medical vehicles to possess a valid Class "D" driver's license shall become

effective upon approval of this Resolution by the Legislature of Louisiana.

BE IT FURTHER RESOLVED that the State Plan for the administration of federal Medicaid and Medicare funds be revised in accordance with the Administrative Procedure Act to reflect this change.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the secretary of the Department of Health and Hospitals and the Louisiana Register.

Hunt Downer
Speaker of the House
of Representatives
9908#013

Randy L. Ewing
President of the Senate

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given December 6-7, 1999 beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows:

New Candidates: September 10, 1999

Re-Take Candidates: September 24, 1999

Reciprocity Candidates: November 12, 1999

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, P.O. Box 3596, Baton Rouge, LA 70821-3596, phone (225) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to September 10, 1999. Questions may be directed to (225) 925-7772.

Bob Odom
Commissioner

9908#026

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given October 25-29, at 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is September 10, 1999. No applications will be accepted after September 10, 1999.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to September 10, 1999. Questions may be directed to (225) 925-7772.

Bob Odom
Commissioner

9908#025

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment

Advance Notice of Rulemaking

The Louisiana Department of Environmental Quality is requesting comments on the draft proposed regulation for the new sewage sludge program. This draft proposal was developed by the department in partial response to the state's assumption of the federal National Pollutant Discharge Elimination System (NPDES) program and R.S. 2074.B.(3)(e). The Department is requesting comments on the draft regulation prior to preparing an official proposed regulation. This is a preliminary step in the rulemaking process. Official rulemaking will be initiated after review and consideration of the comments received on this advance notice. At proposal time, the rule will be presented as separate federal and state packages as required by the Administrative Procedure Act. All interested persons are invited to submit written comments on the draft proposal.

The draft proposed regulation establishes standards, which consist of general and other requirements, pollutant limits, general and other management practices, and operational standards, for the final use or disposal of sewage sludge generated during the treatment of domestic sewage in a treatment works. Standards are included in this draft proposed regulation for sewage sludge applied to the land, placed on a surface disposal site, or fired in a sewage sludge incinerator. Also included are pathogen and alternative vector attraction reduction requirements for sewage sludge applied to the land or placed on a surface disposal site. The standards in this draft proposed regulation include the frequency of monitoring, recordkeeping, and reporting requirements. The reporting requirements apply to the person who prepares sewage sludge or a material derived from sewage sludge that is applied to the land or placed on a surface disposal site, the person who applies or places domestic septage, sewage sludge, or a material derived from sewage sludge to the land or on a surface disposal site, the owner/operator of a surface disposal site, the person who prepares the sewage sludge that is fired in a sewage sludge incinerator, and the owner/operator of a sewage sludge incinerator. In addition to the proposed sewage sludge regulation, changes will occur in LAC 33:IX.Chapter 23 comparable to the changes made by EPA to 40 CFR Parts 122, 124, and 403.

The basis for drafting this regulation is to adopt a set of regulations that would be more in line with the regulations that are presently being used by EPA for the final use and

disposal of sewage sludge. Changes are being proposed to the EPA regulations that the Department considers necessary for the protection of human health and the environment. An important change was made to encourage the beneficial use of exceptional quality sludge. The adoption of this regulation will also prepare the Department for future assumption of the Sewage Sludge Program.

All interested persons are invited to submit written comments on the draft proposal. Commentors should reference this draft proposal by WP034. Such comments must be received no later than September 20, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Environmental Planning Division, Box 82178, Baton Rouge, LA 70884 or to fax number (504) 765-0486. If you have any questions regarding the content of this draft proposed regulation, please contact Mr. J. Kilren Vidrine, Office of Environmental Assistance, at (225) 765-0534. Copies of this draft proposal can be purchased at the above referenced address. You may contact the Environmental Planning Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of the draft proposal WP034.

This draft proposal is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394. This draft proposed regulation is also available on the Internet at <http://www.deq.state.la.us/planning/regs/addition/addto99.htm>.

James Brent
Assistant Secretary

9908#066

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, La. R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well No.	Serial No.
C. H. Cuatro	Monroe	HARRELL SU877; Cities Service	006	183347

Operator	Field	Well Name	Well No.	Serial No.
C. H. Cuatro	Monroe	HARRELL SU872; Cities Service	007	183445
C. H. Cuatro	Monroe	HARRELL SU871; Cities Service	008	185865
E&H Oil Co.	Caddo Pine Island	Stiles E	001	146316
E&H Oil Co.	Caddo Pine Island	Stiles E	002	146317
E&H Oil Co.	Caddo Pine Island	Stiles E	003	146331
Tabco Exploration Inc.	Chacahoula	Energy Realty Inv Co	001	051848

Philip N. Asproditos
Commissioner

9908#071

POTPOURRI

**Department of Transportation and Development
Highways/Engineering**

**Public Hearing Fiber Optic Permits
(LAC 70:III.Chapter 25)**

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:968H(2), that the Department of Transportation and Development will hold a public hearing at 10 a.m., Tuesday, September 21, 1999, at the Headquarters of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, Louisiana, Second Floor Conference

Room, for the purpose of receiving public comments on a substantive change to the proposed rule on the subject of Fiber Optic Permits within Highway Rights-of-Way, as published in the *Louisiana Register*, Volume 25, Number 3, March 20, 1999. All interested persons will be afforded an opportunity to present their views, data, arguments, information, or comments at said hearing.

Copies of the amended rule may be obtained from the Department of Transportation and Development, Legal Section, by contacting Sherryl J. Tucker, P.O. Box 94245, Baton Rouge, Louisiana 70804, or Telephone (225)237-1359.

Interested persons may submit written comments on the substantive change to the proposed rule until 4:00 P.M. on Monday, September 20, 1999, by mailing the comments to the Department of Transportation and Development, Legal Section, Attention: Sherryl J. Tucker, P.O. Box 94245, Baton Rouge, Louisiana 70804.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

9908#059

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